

AMENDED IN SENATE SEPTEMBER 4, 2013

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JUNE 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1381**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Bonta (Chair), Jones-Sawyer, Mullin, Rendon, and Wieckowski)**

February 26, 2013

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An act to amend Sections 22115, 22119.2, 22134.5, 22135, 22148, 22327, 22664, 22826, 22901, ~~22901.3~~, 22905, 22909, 23855, 24202, 24202.5, 24202.6, 24202.7, 24203, 24205, 24206, 24209, 24210, 24214, 24214.5, 24600, 26139, 26503.5, 26504, 26800, 26810, 26812, and 26813 of, to add Sections 22109.8, 22146.2, 22160.5, 24252, 26132.5, 26135.5, 26135.7, and 26139.5 to, and to repeal and add Section 22119.3 of, the Education Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1381, as amended, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement Law: pension reform.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Defined Benefit Supplement Program, which provides supplemental retirement, disability, and other benefits, payable

either in a lump-sum payment, an annuity, or both to members of the State Teachers' Retirement Plan. Existing law establishes a program commonly referred to as the Replacement Benefits Program to provide benefit payments to members of STRS whose benefits exceed specified federal limits. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

The California Public Employees' Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, generally requires a public retirement system, as defined, to modify its plan or plans to comply with the act, as specified. Among other things, PEPRA requires a public retirement system to modify its plan or plans to comply with the act and establishes new retirement formulas that a public employer offering a defined benefit pension plan may not exceed for new employees. PEPRA prohibits offering supplemental defined benefit plans for new employees. PEPRA defines pensionable compensation for the purposes of its provisions and requires new employees of specified public employers who participate in a defined benefit plan to have an initial contribution rate of at least 50% of the normal cost rate for that defined benefit plan, rounded to the nearest  $\frac{1}{4}$  of 1%, or the current contribution rate of similarly situated employees, whichever is greater. PEPRA generally prohibits a retired person who retires from a public employer from serving, being employed by, or being employed through a contract directly by, a public employer in the same retirement system from which the retiree receives a pension benefit without reinstatement, subject to certain exceptions and limitations. The act prohibits reemployment of a retiree pursuant to these provisions for a period of 180 days following the date of retirement unless he or she falls within certain exceptions to the prohibition.

This bill would make various changes in the Teachers' Retirement Law to conform with the provisions of PEPRA. The bill would revise the definition of creditable compensation and salary, and specify exclusions from the definition of creditable compensation and salary, for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would define a member subject to PEPRA and would except from that definition a member who is also a member in certain other retirement systems, prior to January 1, 2013, as specified. The bill would revise provisions prescribing the amounts

that members are required to contribute to the retirement fund for the Defined Benefit Program, and that participants in the Cash Balance Benefit Program contribute, to reflect the requirements of PEPRA. The bill would provide, consistent with provisions of PEPRA, that the normal retirement age is 62 years of age for a new member of, or a participant in, these systems, with respect to various provisions of the programs, including those related to survivors' benefits, retirement for service following reinstatement, and performance of post-retirement service. The bill would add new limitations on compensation that may be paid to a member of the Defined Benefit Program or a participant in the Cash Balance Benefit Program performing post-retirement activities, as defined. The bill would prohibit application of the Replacement Benefits Program to employees subject to PEPRA. The bill would define a participant in the Cash Balance Benefit Program who is subject to PEPRA to account for concurrent membership in that program and other public retirement systems. The bill would prescribe new requirements applicable to participants in the Cash Balance Benefit Program who perform retired participant activities, including requirements imposed on governing bodies seeking to employ these participants. The bill would make additional conforming and technical changes.

The bill would also revise provisions that permit the use of a one-year period for the calculation of final compensation for members who are not subject to PEPRA, subject to negotiation by a teacher employer and an exclusive classroom teacher representative, to require that a written agreement addressing this subject be entered into prior to January 1, 2014. The bill would prohibit an employer from paying member contributions for defined benefits for employees who are not subject to PEPRA on or after January 1, 2014, as specified. The bill would provide that compensation for postretirement activities that are not supported by state, local, or federal funds is not subject to postretirement earnings limitations. The bill would apply postretirement compensation limitations to employer payments for, among other things, deferred compensation plans, the purchase of annuities, and payments to various tax qualified retirement plans.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that this act,  
2 as it applies to the State Teachers' Retirement Plan, clarifies the  
3 California Public Employees' Pension Reform Act of 2013, is  
4 declaratory of existing law, and is intended to apply concurrently  
5 with the initial operation of that act. The amendments made by  
6 this act, excluding those amendments made in Sections 4, 12, ~~29,~~  
7 ~~30, 31, and 37,~~ 28, 29, 30, and 36 shall be deemed to be operative  
8 January 1, 2013, unless otherwise stated.

9 SEC. 2. Section 22109.8 is added to the Education Code, to  
10 read:

11 22109.8. "California Public Employees' Pension Reform Act  
12 of 2013" means the California Public Employees' Pension Reform  
13 Act of 2013 (Article 4 (commencing with Section 7522) of Chapter  
14 21 of Division 7 of Title 1 of the Government Code).

15 SEC. 3. Section 22115 of the Education Code is amended to  
16 read:

17 22115. (a) "Compensation earnable" means the creditable  
18 compensation a person could earn in a school year for creditable  
19 service performed on a full-time basis, excluding service for which  
20 contributions are credited by the system to the Defined Benefit  
21 Supplement Program.

22 (b) The board may determine compensation earnable for persons  
23 employed on a part-time basis.

24 (c) If service credit for a school year is less than 1.000,  
25 compensation earnable shall be the quotient obtained when  
26 creditable compensation paid in that year is divided by the service  
27 credit for that year, except as provided in subdivision (d).

28 (d) If a member earns creditable compensation at multiple pay  
29 rates during a school year and service credit at the highest pay rate  
30 is at least 0.900 of a year, compensation earnable shall be  
31 determined as if all service credit for that year had been earned at  
32 the highest pay rate. This subdivision shall be applicable only for  
33 purposes of determining final compensation. If a member earns  
34 creditable compensation at multiple pay rates during a school year  
35 and service credit at the highest pay rate is less than 0.900 of a  
36 year, compensation earnable shall be determined pursuant to  
37 subdivision (c).

1 (e) (1) Except as provided in subdivision (f), for purposes of  
2 determining compensation earnable for a member employed by a  
3 community college prior to July 1, 1996, full time shall be defined  
4 pursuant to Section 22138.5 and pursuant to Section 20521 of Title  
5 5 of the California Code of Regulations, as those provisions read  
6 on June 30, 1996, if application of that definition will increase the  
7 compensation earnable or otherwise enhance the benefits of the  
8 member.

9 (2) For purposes of administering this subdivision, the board  
10 shall have the authority to do both of the following:

11 (A) Establish and implement factors and assumptions necessary  
12 to calculate and compare the benefits payable under the definition  
13 of compensation earnable described in this subdivision. Those  
14 factors and assumptions may be based on information reported by  
15 the employer, including, but not limited to, all of the following:

16 (i) Base hours.

17 (ii) Actual earnings.

18 (iii) Compensation earnable.

19 (B) Review member benefit calculations that were performed  
20 using the factors and assumptions described in subparagraph (A).  
21 If the board determines that an employer failed to identify part-time  
22 service performed, the board shall consider that part-time service  
23 to be performed in a part-time lecture assignment as defined by  
24 the employer. If the board determines by the review of the member  
25 benefit calculations that the required information reported by the  
26 employer is inaccurate, incomplete, or the factors and assumptions  
27 were applied incorrectly, the board may recalculate member  
28 benefits using additional factors and assumptions that may include,  
29 but are not limited to, all of the following:

30 (i) Base hours.

31 (ii) Actual earnings.

32 (iii) Compensation earnable.

33 (3) This subdivision shall apply to a member employed by a  
34 community college prior to July 1, 1996, if the community college  
35 subsequently acts to reduce the minimum standard for full time as  
36 described in subdivision (c) of Section 22138.5 for the class of  
37 employees, and that community college provides written notice  
38 to the system of the act of the community college to reduce that  
39 minimum standard.

1 (4) This subdivision shall not apply to a member employed by  
2 a community college that has not reduced the minimum standard  
3 as described in subdivision (c) of Section 22138.5.

4 (f) Subdivision (e) shall not apply to a member subject to the  
5 California Public Employees' Pension Reform Act of 2013.

6 SEC. 4. Section 22119.2 of the Education Code is amended to  
7 read:

8 22119.2. (a) "Creditable compensation" means remuneration  
9 that is paid in cash by an employer to all persons in the same class  
10 of employees for performing creditable service in that position.  
11 Creditable compensation shall include:

12 (1) Salary or wages paid in accordance with a publicly available  
13 written contractual agreement, including, but not limited to, a  
14 salary schedule or employment agreement.

15 (2) Remuneration that is paid in addition to salary or wages,  
16 provided it is paid to all persons who are in the same class of  
17 employees in the same dollar amount, the same percentage of  
18 salary or wages, or the same percentage of the amount being  
19 distributed.

20 (3) Remuneration that is paid for the use of sick leave, vacation,  
21 and other employer-approved leave, except as provided in  
22 paragraph (4) of subdivision (c).

23 (4) Member contributions that are picked up by an employer  
24 pursuant to Section 22903 or 22904.

25 (5) Amounts that are deducted from a member's remuneration,  
26 including, but not limited to, deductions for participation in a  
27 deferred compensation plan; deductions to purchase an annuity  
28 contract, tax-deferred retirement plan, or insurance program; and  
29 contributions to a plan that meets the requirements of Section 125,  
30 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United  
31 States Code.

32 (6) Any other payments the board determines to be "creditable  
33 compensation."

34 (b) Any creditable compensation determined by the system to  
35 have been paid to enhance a member's benefits shall not be credited  
36 under the Defined Benefit Program. Contributions on that  
37 compensation shall be credited to the Defined Benefit Supplement  
38 Program. A presumption by the system that creditable  
39 compensation was paid to enhance a member's benefits may be  
40 rebutted by the member or by the employer on behalf of the

1 member. Upon receipt of sufficient evidence to the contrary, a  
2 presumption by the system that creditable compensation was paid  
3 to enhance the member's benefits may be reversed.

4 (c) "Creditable compensation" does not mean and shall not  
5 include:

6 (1) Remuneration that is not paid in cash or is not paid to all  
7 persons who are in the same class of employees.

8 (2) Remuneration that is paid for service that is not creditable  
9 service pursuant to Section 22119.5.

10 (3) Remuneration that is paid in addition to salary or wages if  
11 it is not paid to all persons in the same class of employees in the  
12 same dollar amount, the same percentage of salary or wages, or  
13 the same percentage of the amount being distributed pursuant to  
14 paragraph (2) of subdivision (a).

15 (4) Remuneration that is paid in exchange for the relinquishment  
16 of unused accumulated leave.

17 (5) Payments, including, but not limited to, those for  
18 participation in a deferred compensation plan; to purchase an  
19 annuity contract, tax-deferred retirement plan, or insurance  
20 program; and for contributions to a plan that meets the requirements  
21 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
22 26 of the United States Code when the cost is covered by an  
23 employer and is not deducted from the member's salary.

24 (6) Fringe benefits provided by an employer.

25 (7) Expenses paid or reimbursed by an employer.

26 (8) Severance pay, including lump-sum and installment  
27 payments, or money paid in excess of salary or wages to a member  
28 as compensatory damages or as a compromise settlement.

29 (9) Any other payments the board determines not to be  
30 "creditable compensation."

31 (d) An employer or individual who knowingly or willfully  
32 reports compensation in a manner inconsistent with subdivision  
33 (a) or (c) may be subject to prosecution for fraud, theft, or  
34 embezzlement in accordance with the Penal Code. The system  
35 may establish procedures to ensure that compensation reported by  
36 an employer is in compliance with this section.

37 (e) For purposes of this section, remuneration shall be considered  
38 paid if distributed to any person in the same class of employees  
39 who meets the qualifications or requirements specified in a publicly  
40 available written contractual agreement, including, but not limited

1 to, a collective bargaining agreement or an employment agreement,  
2 as a condition of receiving the remuneration.

3 (f) This definition of “creditable compensation” reflects sound  
4 principles that support the integrity of the retirement fund. Those  
5 principles include, but are not limited to, consistent treatment of  
6 compensation throughout a member’s career, consistent treatment  
7 of compensation among an entire class of employees, consistent  
8 treatment of compensation for the position, preventing adverse  
9 selection, and excluding from compensation earnable remuneration  
10 that is paid to enhance a member’s benefits. The system shall  
11 determine the appropriate crediting of contributions between the  
12 Defined Benefit Program and the Defined Benefit Supplement  
13 Program according to these principles, to the extent not otherwise  
14 specified pursuant to this part.

15 (g) The section shall become operative on July 1, 2002.

16 (h) This section shall not apply to a member subject to the  
17 California Public Employees’ Pension Reform Act of 2013.

18 SEC. 5. Section 22119.3 of the Education Code is repealed.

19 SEC. 6. Section 22119.3 is added to the Education Code, to  
20 read:

21 22119.3. (a) “Creditable compensation” for members who are  
22 subject to the California Public Employees’ Pension Reform Act  
23 of 2013 means ~~regular, recurring~~ remuneration that is paid *each*  
24 *pay period in which creditable service is performed for that*  
25 *position. Creditable compensation shall be paid* in cash by an  
26 employer to all persons in the same class of employees in  
27 accordance with a publicly available written contractual agreement,  
28 including, but not limited to, a salary schedule or employment  
29 ~~agreement, for performing creditable service in that position.~~  
30 *agreement.* Creditable compensation shall include:

31 (1) Remuneration that is paid for the use of sick leave, vacation,  
32 and other employer-approved leave, except as provided in  
33 paragraph (4) of subdivision (b).

34 (2) Member contributions that are picked up by an employer  
35 pursuant to Section 22903 or 22904.

36 (3) Amounts that are deducted from a member’s remuneration,  
37 including, but not limited to, deductions for participation in a  
38 deferred compensation plan; deductions to purchase an annuity  
39 contract, tax-deferred retirement plan, or insurance program; and  
40 contributions to a plan that meets the requirements of Section 125,

1 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United  
2 States Code.

3 ~~(4) Notwithstanding paragraph (11) of subdivision (b),~~  
4 ~~remuneration that is paid to achieve compensation parity between~~  
5 ~~part-time and full-time faculty of California Community Colleges~~  
6 ~~for similar work, as funded pursuant to the Budget Act.~~

7 ~~(5) Notwithstanding paragraph (11) of subdivision (b),~~  
8 ~~remuneration that is paid based on the allocation of funds from~~  
9 ~~the California State Lottery Education Fund pursuant to Section~~  
10 ~~8880.5 of the Government Code.~~

11 ~~(6) Notwithstanding paragraph (11) of subdivision (b),~~  
12 ~~remuneration that is paid when the number of students in the~~  
13 ~~classroom exceeds the contractual amount.~~

14 ~~(7)~~

15 (4) Notwithstanding paragraphs (6) and (8) of subdivision (c)  
16 of Section 7522.34 of the Government Code, remuneration that is  
17 paid for creditable service that exceeds one year in a school year.

18 (b) “Creditable compensation” does not mean and shall not  
19 include:

20 (1) Remuneration that is not paid in cash or is not paid to all  
21 persons who are in the same class of employees.

22 (2) Remuneration that is paid for service that is not creditable  
23 service pursuant to Section 22119.5.

24 (3) Remuneration that is ~~paid in addition to salary or wages~~ *not*  
25 *paid each pay period in which creditable service is performed for*  
26 *that position.*

27 (4) Remuneration that is paid in exchange for the relinquishment  
28 of unused accumulated leave.

29 (5) Payments, including, but not limited to, those for  
30 participation in a deferred compensation plan; to purchase an  
31 annuity contract, tax-deferred retirement plan, or insurance  
32 program; and for contributions to a plan that meets the requirements  
33 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
34 26 of the United States Code when the cost is covered by an  
35 employer.

36 (6) Fringe benefits provided by an employer.

37 (7) Expenses paid or reimbursed by an employer.

38 (8) Severance pay, including lump-sum and installment  
39 payments, or money paid in excess of salary or wages to a member  
40 as compensatory damages or as a compromise settlement.

- 1 (9) Creditable compensation determined by the system to have  
2 been paid to enhance a member's benefit.
- 3 (10) Compensation paid to the member in lieu of benefits  
4 provided to the member by the employer or paid directly by the  
5 employer to a third party other than the system for the benefit of  
6 the member.
- 7 (11) Any one-time or ad hoc payments made to a member.
- 8 (12) Any employer-provided allowance, reimbursement, or  
9 payment, including, but not limited to, one made for housing,  
10 vehicle, or uniform.
- 11 (13) Any bonus paid in addition to compensation described in  
12 subdivision (a).
- 13 (14) Any other payments the board determines not to be  
14 "creditable compensation."
- 15 (c) (1) Except for purposes of calculating credited service in  
16 the Defined Benefit Program and for reporting compensation  
17 earnable on or after January 1, 2013, creditable compensation in  
18 any fiscal year shall not exceed:
- 19 (A) One hundred twenty percent of the "contribution and benefit  
20 base," as determined under Section 430(b) of the Social Security  
21 Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member  
22 whose service is not included in the federal system.
- 23 (B) One hundred percent of the "contribution and benefit base,"  
24 as determined under Section 430(b) of the Social Security Act (42  
25 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose  
26 service is included in the federal system pursuant to any changes  
27 in state or federal law enacted on or after January 1, 2013.
- 28 (2) The system shall adjust the limit in paragraph (1) based on  
29 the annual changes to the Consumer Price Index for All Urban  
30 ~~Consumers~~ *Consumers: City Average*, calculated by dividing the  
31 Consumer Price Index for All Urban ~~Consumers~~ *Consumers: City*  
32 *Average* for the month of February in the fiscal year preceding the  
33 adjustment by the Consumer Price Index for All Urban ~~Consumers~~  
34 *Consumers: City Average* for the month of February of the previous  
35 year rounded to the nearest thousandth. Notwithstanding paragraph  
36 (1) of subdivision (d) of Section 7522.10 of the Government Code,  
37 the adjustment shall be effective annually on July 1, beginning  
38 July 1, 2014.
- 39 (3) The Legislature reserves the right to modify the requirements  
40 of this subdivision with regard to all members subject to this

1 subdivision, except that the Legislature may not modify these  
2 provisions in a manner that would result in a decrease in benefits  
3 accrued prior to the effective date of the modification.

4 (4) This subdivision shall apply to compensation paid during  
5 the 2013–14 fiscal year and each fiscal year thereafter.

6 (d) An employer or individual who knowingly or willfully  
7 reports compensation in a manner inconsistent with subdivision  
8 (a) or (b) may be subject to prosecution for fraud, theft, or  
9 embezzlement in accordance with the Penal Code. The system  
10 may establish procedures to ensure that compensation reported by  
11 an employer is in compliance with this section.

12 (e) For purposes of this section, remuneration shall be considered  
13 paid if distributed to any person in the same class of employees  
14 who meets the qualifications or requirements specified in a publicly  
15 available written contractual agreement, including, but not limited  
16 to, a collective bargaining agreement or an employment agreement,  
17 as a condition of receiving the remuneration.

18 (f) This definition of “creditable compensation” reflects sound  
19 principles that support the integrity of the retirement fund. Those  
20 principles include, but are not limited to, consistent treatment of  
21 compensation throughout a member’s career, consistent treatment  
22 of compensation among an entire class of employees, consistent  
23 treatment of compensation for the position, preventing adverse  
24 selection, and excluding from creditable compensation  
25 remuneration that is paid to enhance a member’s benefits. The  
26 system shall determine the appropriate crediting of contributions  
27 according to these principles, to the extent not otherwise specified  
28 pursuant to this part. A presumption by the system that creditable  
29 compensation was paid to enhance the member’s benefits may be  
30 rebutted by the member or by the employer on behalf of the  
31 member. Upon receipt of sufficient evidence to the contrary, a  
32 presumption by the system that creditable compensation was paid  
33 to enhance the member’s benefits may be reversed.

34 SEC. 7. Section 22134.5 of the Education Code is amended to  
35 read:

36 22134.5. (a) Notwithstanding Section 22134, “final  
37 compensation” means the highest average annual compensation  
38 earnable by a member during any period of 12 consecutive months  
39 while an active member of the Defined Benefit Program or time  
40 during which he or she was not a member but for which the

1 member has received credit under the Defined Benefit Program,  
 2 except time that was so credited for service performed outside this  
 3 state prior to July 1, 1944.

4 (b) For purposes of this section, periods of service separated by  
 5 breaks in service may be aggregated to constitute a period of 12  
 6 consecutive months, if the periods of service are consecutive except  
 7 for the breaks.

8 (c) The determination of final compensation of a member who  
 9 has concurrent membership in any other retirement system pursuant  
 10 to Section 22115.2 shall take into consideration the compensation  
 11 earnable while a member of any other system, provided that both  
 12 of the following exist:

13 (1) Service under any other system was not performed during  
 14 the same pay period with service under the Defined Benefit  
 15 Program.

16 (2) Retirement under the Defined Benefit Program is concurrent  
 17 with the member's retirement under any other system.

18 (d) If a member has received service credit for part-time service  
 19 performed prior to July 1, 1956, the member's final compensation  
 20 shall be adjusted for that service in excess of one year by the ratio  
 21 that part-time service bears to full-time service.

22 (e) The board may specify a different final compensation with  
 23 respect to disability allowances, disability retirement allowances,  
 24 family allowances, and children's portions of survivor benefit  
 25 allowances payable on and after January 1, 1978. The compensation  
 26 earnable for periods of part-time service shall be adjusted by the  
 27 ratio that part-time service bears to full-time service.

28 (f) This section shall apply to the following:

29 (1) A member who has 25 or more years of credited service,  
 30 excluding service credited pursuant to the following:

31 (A) Section 22714.

32 (B) Section 22715.

33 (C) Section 22717, except as provided in subdivision (b) of  
 34 Section 22121.

35 (D) Section 22826.

36 (2) A nonmember spouse, if the member had 25 or more years  
 37 of credited service, as calculated in paragraph (1), on the date the  
 38 parties separated, as established in the judgment or court order  
 39 pursuant to Section 22652.

1 (3) This section shall not apply to a member subject to the  
2 California Public Employees' Pension Reform Act of 2013.

3 SEC. 8. Section 22135 of the Education Code is amended to  
4 read:

5 22135. (a) Notwithstanding subdivisions (a) and (b) of Section  
6 22134, "final compensation" means the highest average annual  
7 compensation earnable by an active member who is a classroom  
8 teacher not subject to the California Public Employees' Pension  
9 Reform Act of 2013 and who retires, becomes disabled, or dies,  
10 after June 30, 1990, during any period of 12 consecutive months  
11 during his or her membership in the plan's Defined Benefit  
12 Program.

13 (b) Section 22134, except subdivision (a) of that section, shall  
14 apply to classroom teachers who retire after June 30, 1990, and  
15 any statutory reference to Section 22134 or "final compensation"  
16 with respect to a classroom teacher who retires, becomes disabled,  
17 or dies, after June 30, 1990, shall be deemed to be a reference to  
18 this section.

19 (c) As used in this section, "classroom teacher" means any of  
20 the following:

21 (1) All teachers and substitute teachers in positions requiring  
22 certification qualifications who spend, during the last 10 years of  
23 their employment with the same employer which immediately  
24 precedes their retirement, 60 percent or more of their contract time  
25 each year providing direct instruction. For the purpose of  
26 determining continuity of employment within the meaning of this  
27 subdivision, an authorized leave of absence for sabbatical or illness  
28 or other collectively bargained or employer-approved leaves shall  
29 not constitute a break in service.

30 (2) Other certificated personnel who spend, during the last 10  
31 years of their employment with the same employer that  
32 immediately precedes their retirement, 60 percent or more of their  
33 contract time each year providing direct services to pupils,  
34 including, but not limited to, librarians, counselors, nurses, speech  
35 therapists, resource specialists, audiologists, audiometrists,  
36 hygienists, optometrists, psychologists, driver safety instructors,  
37 and personnel on special assignment to perform school attendance  
38 and adjustment services.

39 (d) As used in this section, "classroom teacher" does not include  
40 any of the following:

- 1 (1) Certificated employees whose job descriptions require an  
2 administrative credential.
- 3 (2) Certificated employees whose job descriptions include  
4 responsibility for supervision of certificated staff.
- 5 (3) Certificated employees who serve as advisers, coordinators,  
6 consultants, or developers or planners of curricula, instructional  
7 materials, or programs, who spend, during the last 10 years of their  
8 employment with the same employer that immediately precedes  
9 their retirement, less than 60 percent of their contract time in direct  
10 instruction.
- 11 (4) Certificated employees whose job descriptions require  
12 provision of direct instruction or services, but who are functioning  
13 in nonteaching assignments.
- 14 (5) Classified employees.
- 15 (e) This section shall apply only to teachers employed by an  
16 employer that has, pursuant to Chapter 10.7 (commencing with  
17 Section 3540) of Division 4 of Title 1 of the Government Code,  
18 entered into, extended, renewed, or amended a written agreement  
19 with an exclusive representative, prior to January 1, 2014, that  
20 makes this section applicable to all of its classroom teachers, as  
21 defined in subdivision (c).
- 22 (f) The written agreement shall include a mechanism to pay for  
23 all increases in allowances provided for by this section through  
24 employer contributions or employee contributions or both, which  
25 shall be collected and retained by the employer in a trust fund to  
26 be used solely and exclusively to pay the system for all increases  
27 in allowances provided by this section and related administrative  
28 costs; and a mechanism for disposition of the employee's  
29 contributions if employment is terminated before retirement, and  
30 for the establishment of a trust fund board. The trust fund board  
31 shall administer the trust fund and shall be composed of an equal  
32 number of members representing classroom teachers chosen by  
33 the bargaining agent and the employer. If the employer agrees to  
34 pay the total cost of increases in allowances, the establishment of  
35 a trust fund and a trust fund board shall be optional to the employer.  
36 The employer, within 30 days of receiving an invoice from the  
37 system, shall reimburse the retirement fund the amount determined  
38 by the Teachers' Retirement Board to be the actuarial equivalent  
39 of the difference between the allowance the member or beneficiary  
40 receives pursuant to this section and the allowance the member or

1 beneficiary would have received if the member's final  
2 compensation had been computed under Section 22134 and the  
3 proportionate share of the cost to the plan's Defined Benefit  
4 Program, as determined by the Teachers' Retirement Board, of  
5 administering this section. The payment shall include the cost of  
6 all increases in allowances provided for by this section for all years  
7 of service credited to the member as of the benefit effective date.  
8 Interest shall be charged at the regular interest rate for any payment  
9 not received within 30 days of receipt of the invoice. Payments  
10 not received within 30 days after receipt of the invoice may be  
11 collected pursuant to Section 23007.

12 (g) Upon the execution of the agreement, the employer shall  
13 notify all certificated employees of the agreement and any  
14 certificated employee of the employer, who is a member of the  
15 Public Employees' Retirement System pursuant to Section 22508,  
16 that he or she may, within 60 days following the date of  
17 notification, elect to terminate his or her membership in the Public  
18 Employees' Retirement System and become a member of this  
19 plan's Defined Benefit Program. However, only service credited  
20 under the Defined Benefit Program subsequent to the date of that  
21 election shall be subject to this section.

22 (h) An employer that agrees to become subject to this section,  
23 shall, on a form and within the timeframes prescribed by the  
24 system, certify the applicability of this section to a member  
25 pursuant to the criteria set forth in this section when a retirement,  
26 disability, or family allowance becomes payable.

27 (i) For a nonmember spouse, final compensation shall be  
28 determined pursuant to paragraph (5) of subdivision (c) of Section  
29 22664. The employer, within 30 days of receiving an invoice from  
30 the system, shall reimburse the retirement fund pursuant to  
31 subdivision (f). Interest shall be charged at the regular interest rate  
32 for payments not received within the prescribed timeframe.  
33 Payments not received within 30 days of invoicing may be  
34 collected pursuant to Section 23007.

35 SEC. 9. Section 22146.2 is added to the Education Code, to  
36 read:

37 22146.2. (a) Notwithstanding subdivision (f) of Section  
38 7522.04 of the Government Code, "member subject to the  
39 California Public Employees' Pension Reform Act of 2013" means  
40 a person who first becomes employed to perform creditable service

1 subject to coverage under the Defined Benefit Program on or after  
2 January 1, 2013.

3 (b) A member as defined in subdivision (a) does not include a  
4 person who was a member on or before December 31, 2012, of  
5 the California Public Employees' Retirement System, the  
6 Legislators' Retirement System, the University of California  
7 Retirement System, a county retirement system established under  
8 Chapter 3 (commencing with Section 31450) of Part 3 of Division  
9 4 of Title 3 of the Government Code, or the San Francisco  
10 Employees' Retirement System, and the person performed service  
11 in the other retirement system within the six months prior to the  
12 commencement of creditable service under the Defined Benefit  
13 Program.

14 (c) This section shall be deemed to have become operative on  
15 January 1, 2013.

16 SEC. 10. Section 22148 of the Education Code is amended to  
17 read:

18 22148. "Normal retirement" and "normal retirement age" mean  
19 60 years of age, or 62 years of age for a member subject to the  
20 California Public Employees' Pension Reform Act of 2013, which  
21 is the age upon attainment of which the member becomes eligible  
22 under the Defined Benefit Program for a service retirement  
23 allowance without reduction because of age and without special  
24 qualifications.

25 SEC. 11. Section 22160.5 is added to the Education Code, to  
26 read:

27 22160.5. "Public employer" means a public employer as  
28 defined in subdivision (i) of Section 7522.04 of the Government  
29 Code.

30 SEC. 12. Section 22327 of the Education Code is amended to  
31 read:

32 22327. Notwithstanding any other provision of law, the  
33 Employment Development Department shall disclose to the system  
34 information in its possession relating to the earnings of any person  
35 who is a member of the Defined Benefit Program, if the member  
36 is receiving a disability benefit or performing retired member  
37 activities. The earnings information shall be released to the system  
38 only upon written request from the system specifying that the  
39 person is a member of the Defined Benefit Program and is  
40 receiving a disability benefit or performing retired member

1 activities. The system shall use the information obtained pursuant  
2 to this section only for purposes of Chapter 25 (commencing with  
3 Section 24001), Chapter 26 (commencing with the Section 24100),  
4 Section 24214, or Section 24214.5. The request may be made by  
5 the chief executive officer of the system or by an employee of the  
6 system so authorized and identified by name and title by the chief  
7 executive officer in writing. The system shall notify members  
8 receiving a disability benefit or performing retired member  
9 activities that earnings information shall be obtained from the  
10 Employment Development Department upon request by the system.  
11 The system shall not release any earnings information received  
12 from the Employment Development Department to any person,  
13 agency, or other entity. The system shall reimburse the  
14 Employment Development Department for all reasonable  
15 administrative expenses incurred pursuant to this section.

16 SEC. 13. Section 22664 of the Education Code is amended to  
17 read:

18 22664. The nonmember spouse who is awarded a separate  
19 account shall have the right to a service retirement allowance and,  
20 if applicable, a retirement benefit under this part.

21 (a) The nonmember spouse shall be eligible to retire for service  
22 under this part if the following conditions are satisfied:

23 (1) The member had at least five years of credited service during  
24 the period of marriage, at least one year of which had been  
25 performed subsequent to the most recent refund to the member of  
26 accumulated retirement contributions. The credited service may  
27 include service credited to the account of the member as of the  
28 date of the dissolution or legal separation, previously refunded  
29 service, out-of-state service, and permissive service credit that the  
30 member is eligible to purchase at the time of the dissolution or  
31 legal separation.

32 (2) The nonmember spouse has at least 2½ years of credited  
33 service in his or her separate account.

34 (3) The nonmember spouse has attained 55 years of age or more.

35 (b) A service retirement allowance of a nonmember spouse  
36 under this part shall become effective upon a date designated by  
37 the nonmember spouse, provided:

38 (1) The requirements of subdivision (a) are satisfied.

39 (2) The nonmember spouse has filed an application for service  
40 retirement on a properly executed form provided by the system,

1 that is executed no earlier than six months before the effective date  
2 of the retirement allowance.

3 (3) The effective date is no earlier than the first day of the month  
4 that the application is received at the system’s headquarters office  
5 as described in Section 22375, and the effective date is after the  
6 date the judgment or court order pursuant to Section 22652 was  
7 entered.

8 (c) (1) Upon service retirement at normal retirement age under  
9 this part, the nonmember spouse shall receive a retirement  
10 allowance that shall consist of an annual allowance payable in  
11 monthly installments equal to 2 percent of final compensation for  
12 each year of credited service.

13 (2) If the nonmember spouse’s retirement is effective at less  
14 than normal retirement age and between early retirement age under  
15 this part and normal retirement age, the retirement allowance shall  
16 be reduced by one-half of 1 percent for each full month, or fraction  
17 of a month, that will elapse until the nonmember spouse would  
18 have reached normal retirement age.

19 (3) If the nonmember spouse’s service retirement is effective  
20 at an age greater than normal retirement age and is effective on or  
21 after January 1, 1999, the percentage of final compensation for  
22 each year of credited service shall be determined pursuant to the  
23 following table:

25	Age at Retirement	Percentage
26	60¼ .....	2.033
27	60½ .....	2.067
28	60¾ .....	2.10
29	61 .....	2.133
30	61¼ .....	2.167
31	61½ .....	2.20
32	61¾ .....	2.233
33	62 .....	2.267
34	62¼ .....	2.30
35	62½ .....	2.333
36	62¾ .....	2.367
37	63 and over .....	2.40
38		

1 (4) In computing the retirement allowance of the nonmember  
2 spouse, the age of the nonmember spouse on the last day of the  
3 month that the retirement allowance begins to accrue shall be used.

4 (5) Final compensation, for purposes of calculating the service  
5 retirement allowance of the nonmember spouse under this  
6 subdivision, shall be calculated according to the definition of final  
7 compensation in Section 22134, 22134.5, 22135, or 22136,  
8 whichever is applicable, and shall be based on the member's  
9 compensation earnable up to the date the parties separated, as  
10 established in the judgment or court order pursuant to Section  
11 22652. The nonmember spouse shall not be entitled to use any  
12 other calculation of final compensation.

13 (d) Upon service retirement under this part, the nonmember  
14 spouse shall receive a retirement benefit based on an amount equal  
15 to the balance of credits in the nonmember spouse's Defined  
16 Benefit Supplement account on the date the retirement benefit  
17 becomes payable.

18 (1) A retirement benefit shall be a lump-sum payment, or an  
19 annuity payable in monthly installments, or a combination of both  
20 a lump-sum payment and an annuity, as elected by the nonmember  
21 spouse on the application for a retirement benefit. A retirement  
22 benefit paid as an annuity under this chapter shall be subject to  
23 Sections 22660, 25011, and 25011.1.

24 (2) Upon distribution of the entire retirement benefit in a  
25 lump-sum payment, no other benefit shall be payable to the  
26 nonmember spouse or the nonmember spouse's beneficiary under  
27 the Defined Benefit Supplement Program.

28 (e) If the member is or was receiving a disability allowance  
29 under this part with an effective date before or on the date the  
30 parties separated as established in the judgment or court order  
31 pursuant to Section 22652, or at any time applies for and receives  
32 a disability allowance with an effective date that is before or  
33 coincides with the date the parties separated as established in the  
34 judgment or court order pursuant to Section 22652, the nonmember  
35 spouse shall not be eligible to retire until after the disability  
36 allowance of the member terminates. If the member who is or was  
37 receiving a disability allowance returns to employment to perform  
38 creditable service subject to coverage under the Defined Benefit  
39 Program or has his or her allowance terminated under Section  
40 24015, the nonmember spouse may not be paid a retirement

1 allowance until at least six months after termination of the disability  
2 allowance and the return of the member to employment to perform  
3 creditable service subject to coverage under the Defined Benefit  
4 Program, or the termination of the disability allowance and the  
5 employment or self-employment of the member in any capacity,  
6 notwithstanding Section 22132. If at the end of the six-month  
7 period, the member has not had a recurrence of the original  
8 disability or has not had his or her earnings fall below the amounts  
9 described in Section 24015, the nonmember spouse may be paid  
10 a retirement allowance if all other eligibility requirements are met.

11 (1) The retirement allowance of the nonmember spouse under  
12 this subdivision shall be calculated as follows: the disability  
13 allowance the member was receiving, exclusive of the portion for  
14 dependent children, shall be divided between the share of the  
15 member and the share of the nonmember spouse. The share of the  
16 nonmember spouse shall be the amount obtained by multiplying  
17 the disability allowance, exclusive of the portion for dependent  
18 children, by the years of service credited to the separate account  
19 of the nonmember spouse, including service projected to the date  
20 of separation, and dividing by the projected service of the member.  
21 The nonmember spouse's retirement allowance shall be the lesser  
22 of the share of the nonmember spouse under this subdivision or  
23 the retirement allowance under subdivision (c).

24 (2) The share of the member shall be the total disability  
25 allowance reduced by the share of the nonmember spouse. The  
26 share of the member shall be considered the disability allowance  
27 of the member for purposes of Section 24213.

28 (f) The nonmember spouse who receives a retirement allowance  
29 is not a retired member under this part. However, the allowance  
30 of the nonmember spouse shall be increased by application of the  
31 improvement factor and shall be eligible for the application of  
32 supplemental increases and other benefit maintenance provisions  
33 under this part, including, but not limited to, Sections 24412 and  
34 24415 based on the same criteria used for the application of these  
35 benefit maintenance increases to the service retirement allowances  
36 of members.

37 (g) Paragraphs (1) through (3), inclusive, of subdivision (c) shall  
38 not apply to a nonmember spouse of a member subject to the  
39 California Public Employees' Pension Reform Act of 2013. For a  
40 person who is a nonmember spouse of a member subject to the

1 California Public Employees' Pension Reform Act of 2013 and is  
2 awarded a separate account, the retirement allowance shall equal  
3 the percentage of final compensation for each year of credited  
4 service that is equal to the percentage specified in Section 24202.6  
5 based on the age of the nonmember spouse on the effective date  
6 of the allowance.

7 SEC. 14. Section 22826 of the Education Code is amended to  
8 read:

9 22826. (a) A member, other than a retired member, may  
10 request to purchase up to five years of nonqualified service credit  
11 provided the member is vested in the Defined Benefit Program as  
12 provided in Section 22156.

13 (b) A member who requests to purchase nonqualified service  
14 credit as provided in this chapter shall contribute to the retirement  
15 fund the actuarial cost of the service, including interest as  
16 appropriate, as determined by the board based on the most recent  
17 valuation of the plan with respect to the Defined Benefit Program  
18 in effect on the date of the request, in accordance with subdivisions  
19 (a), (f), (g), and (h) of Section 22801.

20 (c) This section shall apply only to an application to purchase  
21 nonqualified service credit on a properly executed form provided  
22 by the system and received at the system's headquarters office, as  
23 established pursuant to Section 22375, prior to January 1, 2013,  
24 that is subsequently approved by the system.

25 SEC. 15. Section 22901 of the Education Code is amended to  
26 read:

27 22901. (a) Each member of the Defined Benefit Program shall  
28 contribute to the retirement fund an amount equivalent to 8 percent  
29 of the member's creditable compensation, unless he or she is a  
30 member subject to the California Public Employees' Pension  
31 Reform Act of 2013.

32 (b) Each member subject to the California Public Employees'  
33 Pension Reform Act of 2013 shall contribute to the retirement fund  
34 an amount equivalent to the percentage of the member's creditable  
35 compensation calculated as follows:

36 (1) An initial percentage equal to 50 percent of the normal cost  
37 rate of benefits applicable to members subject to the California  
38 Public Employees' Pension Reform Act of 2013, rounded to the  
39 nearest quarter of 1 percent. The normal cost rate shall be adopted  
40 by the board.

1 (2) Notwithstanding paragraph (1), once established, the  
 2 percentage described in paragraph (1) shall not be adjusted on  
 3 account of a change to the normal cost rate, as adopted by the  
 4 board, unless the normal cost rate increases or decreases by more  
 5 than 1 percent of payroll above or below the normal cost rate in  
 6 effect at the time the percentage is first established or, if later, the  
 7 normal cost rate in effect at the time of the last adjustment.

8 (3) Notwithstanding subdivision (e) of Section 7522.30 of the  
 9 Government Code, this subdivision shall not be subject to the  
 10 collective bargaining process.

11 (c) Notwithstanding Section 22905, any member contributions  
 12 for service performed during the 2010–11 school year with a  
 13 service period ending after December 31, 2010, shall be credited  
 14 pursuant to subdivision (a).

15 ~~SEC. 16. Section 22901.3 of the Education Code is amended~~  
 16 ~~to read:~~

17 ~~22901.3. (a) Notwithstanding Section 22901, except as~~  
 18 ~~provided in subdivision (c), the contribution rate for a “state~~  
 19 ~~employee,” as defined in subdivision (c) of Section 3513 of the~~  
 20 ~~Government Code, who is a member of the Defined Benefit~~  
 21 ~~Program, may be established by a memorandum of understanding~~  
 22 ~~reached pursuant to Section 3517.5 of the Government Code. The~~  
 23 ~~memorandum of understanding shall be controlling without further~~  
 24 ~~legislative action, except that if the provisions of the memorandum~~  
 25 ~~of understanding require the expenditure of funds, the provisions~~  
 26 ~~may not become effective unless approved by the Legislature in~~  
 27 ~~the annual Budget Act.~~

28 ~~(b) Except as provided in subdivision (c), the Director of Human~~  
 29 ~~Resources may establish the contribution rate for a state employee~~  
 30 ~~who is a member of the Defined Benefit Program who is excepted~~  
 31 ~~from the definition of “state employee” in subdivision (c) of~~  
 32 ~~Section 3513 of the Government Code, and an officer or employee~~  
 33 ~~of the executive branch of state government who is not a member~~  
 34 ~~of the civil service. The contribution rate shall be the same for all~~  
 35 ~~members identified in this subdivision. The contribution rate shall~~  
 36 ~~be effective the beginning of the pay period indicated by the~~  
 37 ~~Director of Human Resources but shall be no earlier than the~~  
 38 ~~beginning of the pay period following the date the system receives~~  
 39 ~~notification.~~

1 ~~(e) Notwithstanding any other provision of law, the contribution~~  
2 ~~rate for members subject to the California Public Employees'~~  
3 ~~Pension Reform Act of 2013 who are state employees is subject~~  
4 ~~to the provisions of subdivision (e) of Section 7522.30 of the~~  
5 ~~Government Code.~~

6 ~~SEC. 17.~~

7 *SEC. 16.* Section 22905 of the Education Code is amended to  
8 read:

9 22905. (a) Member contributions pursuant to Section 22901,  
10 employer contributions pursuant to Section 22903 or 22904, and  
11 member contributions made by an employer pursuant to Section  
12 22909 shall be credited to the member's individual account under  
13 the Defined Benefit Program or the Defined Benefit Supplement  
14 Program, whichever is applicable pursuant to the provisions of  
15 this part.

16 (b) Except as provided in subdivision (f), member and employer  
17 contributions, exclusive of contributions pursuant to Section 22951,  
18 on a member's compensation under the following circumstances  
19 shall be credited to the member's Defined Benefit Supplement  
20 account:

21 (1) Compensation for creditable service that exceeds one year  
22 in a school year.

23 (2) Compensation that is consistent with subdivision (b) of  
24 Section 22119.2.

25 (3) Compensation that is paid for a limited number of times as  
26 specified by law, a collective bargaining agreement, or an  
27 employment agreement.

28 (c) A member may not make voluntary pretax or posttax  
29 contributions under the Defined Benefit Supplement Program,  
30 except as provided in subdivision (d), nor may a member redeposit  
31 amounts previously distributed based on the balance in the  
32 member's Defined Benefit Supplement account.

33 (d) Member and employer contributions pursuant to paragraph  
34 (1) of subdivision (b) under the Defined Benefit Supplement  
35 Program shall be credited to the accounts of members as of July  
36 1 each year following a determination by the system under the  
37 provisions of this part that those contributions should be credited  
38 to the Defined Benefit Supplement Program. Any other  
39 contributions under the Defined Benefit Supplement Program  
40 pursuant to paragraph (2) or (3) of subdivision (b), shall be credited

1 to the individual account of the member upon receipt by the system.  
2 Contributions to a member's Defined Benefit Supplement account  
3 shall be identified separately from the member's contributions  
4 credited under the Defined Benefit Program.

5 (e) The provisions of this section shall become operative on  
6 July 1, 2002, if the revenue limit cost-of-living adjustment  
7 computed by the Superintendent of Public Instruction for the  
8 2001–02 fiscal year is equal to or greater than 3.5 percent.  
9 Otherwise this section shall become operative on July 1, 2003.

10 (f) Paragraphs (2) and (3) of subdivision (b) shall not apply to  
11 a member subject to the California Public Employees' Pension  
12 Reform Act of 2013.

13 ~~SEC. 18.~~

14 *SEC. 17.* Section 22909 of the Education Code is amended to  
15 read:

16 22909. (a) Notwithstanding Sections 22901, 22956, and 23000,  
17 an employer may pay all or a portion of the contributions required  
18 to be paid by a member of the Defined Benefit Program. Where  
19 the member is included in a group or class of employment in which  
20 no members are subject to the California Public Employees'  
21 Pension Reform Act of 2013, the payment shall be for all members  
22 in the group or class of employment. The payments shall be  
23 credited to member accounts pursuant to Section 22905. The  
24 employer shall report contributions to the system as if the member  
25 and the employer were paying the contributions in accordance  
26 with this part, notwithstanding this section. For purposes of this  
27 chapter, the member's contributions shall be considered to be the  
28 percentage of the member's creditable compensation that would  
29 have been paid pursuant to this chapter, notwithstanding this  
30 section. Notwithstanding Section 22119.2, contributions paid  
31 pursuant to this section may not be included in creditable  
32 compensation.

33 (b) Nothing in this section shall be construed to limit the  
34 authority of an employer to periodically increase, reduce, or  
35 eliminate the payment by the employer of all or a portion of the  
36 contributions required to be paid by members of the Defined  
37 Benefit Program, as authorized by this section.

38 (c) This section shall only apply to an employer that is picking  
39 up members' contributions pursuant to Section 22903 or 22904.

1 (d) As of January 1, 2013, this section shall not apply if the  
2 group or class of employment includes members who are subject  
3 to the Public Employees' Pension Reform Act of 2013. If the terms  
4 of a written agreement with an exclusive representative that is in  
5 effect on January 1, 2013, would be impaired by this subdivision,  
6 this subdivision shall not apply to the employer and members  
7 subject to that written agreement until the expiration of that written  
8 agreement. A renewal, amendment, or any other extension of that  
9 written agreement shall be subject to the requirements of this  
10 subdivision.

11 (e) As of January 1, 2014, this section shall not apply if the  
12 group or class of employment does not include members who are  
13 subject to the Public Employees' Pension Reform Act 2013. If the  
14 terms of a written agreement with an exclusive representative that  
15 is in effect on January 1, 2014, would be impaired by this  
16 subdivision, this subdivision shall not apply to the employer and  
17 members subject to that written agreement until the expiration of  
18 that written agreement. A renewal, amendment, or any other  
19 extension of that written agreement shall be subject to the  
20 requirements of this subdivision.

21 ~~SEC. 19.~~

22 *SEC. 18.* Section 23855 of the Education Code is amended to  
23 read:

24 23855. (a) The survivor benefit allowance is a monthly  
25 allowance equal to one-half of the modified retirement allowance  
26 the member would have received at normal retirement age, if the  
27 member had retired and elected Option 3 pursuant to Section  
28 24300, as that section read on December 31, 2006, naming the  
29 spouse as the option beneficiary.

30 (b) The allowance payable under this subdivision shall be based  
31 on the member's actual service credit and final compensation as  
32 of the date of his or her death, the retirement factor at normal  
33 retirement age, and the member's and spouse's ages as of the date  
34 the member would have attained normal retirement age. If the  
35 member's death occurs after he or she attains normal retirement  
36 age, his or her actual final compensation, the retirement factor at  
37 normal retirement age, and the member's and spouse's ages as of  
38 the date of the member's death shall be used in the allowance  
39 calculation.

1 (c) The allowance calculation shall include service credit for  
2 the unused sick leave that had accrued to the member as of the  
3 date of his or her death. Eligibility for the inclusion of unused sick  
4 leave service credit and the calculation of that service credit shall  
5 be determined pursuant to Section 22717.

6 (d) (1) The allowance calculation shall not include either of the  
7 following:

8 (A) The increase in the percentage of final compensation  
9 pursuant to Section 24203.5.

10 (B) The increase of the monthly allowance pursuant to Section  
11 24203.6.

12 (2) The amendments to this section made by the act adding this  
13 paragraph do not constitute a change in, but are declaratory of,  
14 existing law.

15 (e) The surviving spouse may elect to begin receiving the  
16 survivor benefit allowance immediately as of the date of the  
17 member's death or to defer receipt of the allowance to the date the  
18 member would have attained normal retirement age. If allowance  
19 payments to the surviving spouse commence prior to the date the  
20 member would have attained normal retirement age, the allowance  
21 payable shall be actuarially reduced.

22 (f) If the spouse elects, pursuant to Section 23852, to receive  
23 the survivor benefit allowance, an additional 10 percent of final  
24 compensation shall be payable for each dependent child who is  
25 under 21 years of age, up to a maximum of 50 percent of final  
26 compensation. The child's portion shall begin to accrue on the day  
27 following the member's date of death and shall be payable even  
28 if the spouse elects to postpone receipt of the spouse's survivor  
29 benefit allowance until the date the member would have attained  
30 normal retirement age.

31 (g) If there is no surviving spouse, an allowance in an amount  
32 equal to 10 percent of the deceased member's final compensation  
33 shall be paid to each dependent child who is under 21 years of age,  
34 up to a maximum of 50 percent of final compensation. If there are  
35 more than five dependent children, they shall receive allowances  
36 in equal shares of the 50 percent of final compensation. A child's  
37 portion of the survivor benefit allowance shall begin to accrue on  
38 the day following the member's date of death.

1 ~~SEC. 20.~~

2 *SEC. 19.* Section 24202 of the Education Code is amended to  
3 read:

4 24202. (a) A member who retires for service after June 30,  
5 1972, shall receive a retirement allowance consisting of both of  
6 the following:

7 (1) An annual allowance payable in monthly installments, upon  
8 retirement at normal retirement age but less than age 60¼, equal  
9 to 2 percent of the final compensation for each year of credited  
10 service. If the member’s retirement is effective at less than normal  
11 retirement age and between early retirement age and normal  
12 retirement age, the member’s allowance shall be reduced by  
13 one-half of 1 percent for each full month, or fraction of a month  
14 that will elapse until the member will attain normal retirement age.

15 (2) An annuity that shall be the actuarial equivalent of the  
16 accumulated annuity deposit contributions standing to the credit  
17 of the member’s account at the time of retirement.

18 (b) In computing the amounts described in subdivision (a), the  
19 age of the member on the last day of the month in which the  
20 retirement allowance begins to accrue or such later date as provided  
21 in Section 24204 shall be used.

22 (c) The amendments to this section during the 1997–98 Regular  
23 Session of the Legislature shall not apply to state employees.

24 (d) This section shall not apply to a member subject to the  
25 California Public Employees’ Pension Reform Act of 2013.

26 ~~SEC. 21.~~

27 *SEC. 20.* Section 24202.5 of the Education Code is amended  
28 to read:

29 24202.5. (a) A member who retires for service on or after  
30 January 1, 1999, shall receive a retirement allowance consisting  
31 of all of the following:

32 (1) An annual allowance payable in monthly installments, upon  
33 retirement equal to the percentage of the final compensation set  
34 forth opposite the member’s age at retirement in the following  
35 table multiplied by each year of credited service:

Age at Retirement	Percentage
37 60 .....	2.00
38 60¼ .....	2.033
39 60½ .....	2.067
40	

1      60¾ ..... 2.10  
2      61 ..... 2.133  
3      61¼ ..... 2.167  
4      61½ ..... 2.20  
5      61¾ ..... 2.233  
6      62 ..... 2.267  
7      62¼ ..... 2.30  
8      62½ ..... 2.333  
9      62¾ ..... 2.367  
10     63 and over ..... 2.40

11  
12     If the member’s retirement is effective at less than normal  
13     retirement age and between early retirement age and normal  
14     retirement age, the member’s allowance shall be reduced by  
15     one-half of 1 percent for each full month, or fraction of a month  
16     that will elapse until the member will attain normal retirement age.

17     (2) An annuity that shall be the actuarial equivalent of the  
18     member’s accumulated annuity deposit contributions at the time  
19     of retirement.

20     (3) An annuity based on the balance of credits in the member’s  
21     Defined Benefit Supplement account, pursuant to Section 25012,  
22     if elected by the member pursuant to Section 25011 or 25011.1.

23     (b) In computing the amounts described in paragraph (1) of  
24     subdivision (a), the age of the member on the last day of the month  
25     in which the retirement allowance begins to accrue or the later  
26     date as described in Section 24204 shall be used.

27     (c) This section shall not apply to a member subject to the  
28     California Public Employees’ Pension Reform Act of 2013.

29     ~~SEC. 22.~~

30     *SEC. 21.* Section 24202.6 of the Education Code is amended  
31     to read:

32     24202.6. (a) A member subject to the California Public  
33     Employees’ Pension Reform Act of 2013 shall receive a retirement  
34     allowance consisting of all of the following:

35     (1) An annual allowance payable in monthly installments upon  
36     retirement equal to the percentage of the final compensation set  
37     forth opposite the member’s age at retirement in the following  
38     table multiplied by each year of credited service:

39  
40                      Age at Retirement                      Percentage

1	62.....	2.000
2	62 ¼.....	2.033
3	62 ½.....	2.067
4	62 ¾.....	2.100
5	63.....	2.133
6	63 ¼.....	2.167
7	63 ½.....	2.200
8	63 ¾.....	2.233
9	64.....	2.267
10	64 ¼.....	2.300
11	64 ½.....	2.333
12	64 ¾.....	2.367
13	65.....	2.400

14  
 15 (2) If a member retires after attaining early retirement age but  
 16 before attaining normal retirement age, the member’s allowance  
 17 shall be reduced by one-half of 1 percent for each full month, or  
 18 fraction of a month, that will elapse until the member will attain  
 19 normal retirement age.

20 (b) In computing the amounts described in paragraph (1) of  
 21 subdivision (a), the age of the member on the last day of the month  
 22 in which the retirement allowance begins to be payable or the later  
 23 date as described in Section 24204 shall be used.

24 (c) Creditable compensation used to calculate the defined benefit  
 25 shall be limited as described in Section 22119.3.

26 ~~SEC. 23.~~

27 *SEC. 22.* Section 24202.7 of the Education Code is amended  
 28 to read:

29 24202.7. Notwithstanding any other provision of this part, for  
 30 a member subject to the California Public Employees’ Pension  
 31 Reform Act of 2013, the minimum retirement age shall be 55 years  
 32 of age, the early retirement age shall be 55 years of age, and the  
 33 normal retirement age shall be 62 years of age.

34 ~~SEC. 24.~~

35 *SEC. 23.* Section 24203 of the Education Code is amended to  
 36 read:

37 24203. (a) A member who has 30 years of credited service  
 38 under this part may retire at age 50 years or older and receive an  
 39 annual allowance equal to 2 percent of final compensation for each  
 40 year of credited service. If the member has attained age 50 years,

1 but has not attained early retirement age, the allowance shall be  
2 reduced by one-quarter of 1 percent for each full month or fraction  
3 of a month that will elapse until the member will attain early  
4 retirement age and one-half of 1 percent for each full month, or  
5 fraction of a month between early retirement age and normal  
6 retirement age.

7 (b) In computing the amounts described in subdivision (a), the  
8 age of the member on the last day of the month in which the  
9 retirement allowance begins to accrue or any later date provided  
10 in Section 24204 shall be used.

11 (c) This section shall not apply to a member subject to the  
12 California Public Employees' Pension Reform Act of 2013.

13 ~~SEC. 25.~~

14 *SEC. 24.* Section 24205 of the Education Code is amended to  
15 read:

16 24205. A member retiring prior to 60 years of age, and who  
17 has attained 55 years of age, may elect to receive one-half of the  
18 service retirement allowance for normal retirement age for a limited  
19 time and then revert to the full retirement allowance for normal  
20 retirement age.

21 (a) The retirement allowance shall be based on service credit  
22 and final compensation as of the date of retirement for service and  
23 shall be calculated with the factor for normal retirement age.

24 (b) If the member elects a joint and survivor option under  
25 Section 24300 or 24300.1, the actuarial reduction shall be based  
26 on the member's and beneficiary's ages as of the effective date of  
27 the early retirement. If the member elected a preretirement option  
28 under Section 24307, the actuarial reduction shall be based on the  
29 member's and beneficiary's ages as determined by the provisions  
30 of that section.

31 (c) One-half of the retirement allowance as of 60 years of age  
32 shall be paid for a period of time equal to twice the elapsed time  
33 between the effective date of retirement and the date of the retired  
34 member's 60th birthday.

35 (d) The full retirement allowance as calculated under subdivision  
36 (a) or (b) shall begin to accrue as of the first of the month following  
37 the reduction period as specified in subdivision (c). The full  
38 retirement allowance shall not begin to accrue prior to this time  
39 under any circumstances, including, but not limited to, divorce or  
40 death of the named beneficiary.

1 (e) The annual improvement factor provided for in Sections  
2 22140 and 22141 shall be based upon the retirement allowance as  
3 calculated under subdivision (a) or (b). The improvement factor  
4 shall begin to accrue on September 1 following the retired  
5 member's 60th birthday. These increases shall be accumulated  
6 and shall become payable when the full retirement allowance for  
7 normal retirement age first becomes payable.

8 (f) Any ad hoc benefit increase with an effective date prior to  
9 the retired member's 60th birthday shall not affect an allowance  
10 payable under this section. Only those ad hoc improvements with  
11 effective dates on or after the retired member's 60th birthday shall  
12 be accrued and accumulated and shall first become payable when  
13 the full retirement allowance for normal retirement age becomes  
14 payable.

15 (g) The cancellation of an option election in accordance with  
16 Section 24305 shall not cancel the election under this section.  
17 Upon cancellation of the joint and survivor option, one-half of the  
18 retired member's retirement allowance as calculated under  
19 subdivision (a) shall become payable for the balance of the  
20 reduction period specified in subdivision (c).

21 (h) If a retired member who has elected a joint and survivor  
22 option dies during the period when the reduced allowance is  
23 payable, the beneficiary shall receive one-half of the allowance  
24 payable to the beneficiary until the date when the retired member  
25 would have received the full retirement allowance for normal  
26 retirement age. At that time, the beneficiary's allowance shall be  
27 increased to the full amount payable to the beneficiary plus the  
28 appropriate annual improvement factor increases and ad hoc  
29 increases.

30 (i) This section shall not apply to a member who retires for  
31 service pursuant to Section 24201.5, 24209, 24209.3, 24210,  
32 24211, or 24212.

33 (j) This section shall not apply to a member subject to the  
34 California Public Employees' Pension Reform Act of 2013.

35 ~~SEC. 26.~~

36 *SEC. 25.* Section 24206 of the Education Code is amended to  
37 read:

38 24206. The minimum unmodified allowance for service  
39 retirement under the Defined Benefit Program, exclusive of  
40 annuities payable from accumulated annuity deposit contributions

1 and exclusive of the balance of credits in the member’s Defined  
 2 Benefit Supplement account, shall not be less than ten dollars (\$10)  
 3 per month multiplied by the member’s years of credited service.  
 4 This guaranteed amount shall be reduced by the amount of an  
 5 unmodified allowance payable from a local system based on service  
 6 credited under the Defined Benefit Program. If the retirement is  
 7 effective at less than normal retirement age this allowance shall  
 8 be reduced by one-half of 1 percent for each full month or fraction  
 9 of a month that will elapse until the member would have reached  
 10 normal retirement age.

11 ~~SEC. 27.~~

12 *SEC. 26.* Section 24209 of the Education Code is amended to  
 13 read:

14 24209. (a) Upon retirement for service following reinstatement,  
 15 the member shall receive a service retirement allowance equal to  
 16 the sum of both of the following:

17 (1) An amount equal to the monthly allowance the member was  
 18 eligible to receive immediately preceding reinstatement, exclusive  
 19 of any amounts payable pursuant to Section 22714 or 22715,  
 20 increased by the improvement factor that would have been applied  
 21 to the allowance if the member had not reinstated.

22 (2) An amount calculated pursuant to Section 24202, 24202.5,  
 23 24202.6, 24203, 24203.5, or 24206 on service credited subsequent  
 24 to the most recent reinstatement, the member’s age at retirement,  
 25 and final compensation.

26 (b) If the total amount of credited service, other than that accrued  
 27 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,  
 28 is equal to or greater than 30 years, the amounts identified in  
 29 paragraphs (1), for members who initially retired on or after  
 30 January 1, 1999, and (2) of subdivision (a) shall be calculated  
 31 pursuant to Section 24203.5.

32 (c) If the total amount of credited service, other than that accrued  
 33 pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826,  
 34 is equal to or greater than 30 years, upon retirement for service  
 35 following reinstatement, a member who retired pursuant to Section  
 36 24213, and received the terminated disability allowance for the  
 37 prior retirement, shall receive a service retirement allowance equal  
 38 to the sum of the following:

39 (1) An amount based on the service credit accrued prior to the  
 40 effective date of the disability allowance, the member’s age at the

1 prior retirement increased by the factor provided in Section  
2 24203.5, and projected final compensation.

3 (2) An amount calculated pursuant to Section 24202, 24202.5,  
4 24202.6, 24203.5, or 24206 on service credited subsequent to the  
5 reinstatement, the member's age at retirement, and final  
6 compensation.

7 (d) For purposes of this section, final compensation shall not  
8 be based on a determination of compensation earnable as described  
9 in subdivision (e) of Section 22115.

10 ~~SEC. 28.~~

11 *SEC. 27.* Section 24210 of the Education Code is amended to  
12 read:

13 24210. Upon retirement for service following a prior disability  
14 retirement granted pursuant to Chapter 26 (commencing with  
15 Section 24100) that was terminated, the member shall receive a  
16 service retirement allowance calculated pursuant to Section 24202,  
17 24202.5, 24202.6, 24203, 24203.5, or 24206 and equal to the sum  
18 of both of the following:

19 (a) An amount based on service credit accrued prior to the  
20 effective date of the disability retirement, the member's age as of  
21 the effective date of the service retirement, and indexed final  
22 compensation to the effective date of the service retirement.

23 (b) An amount based on the service credit accrued after  
24 termination of the disability retirement, the member's age as of  
25 the effective date of service retirement, and final compensation.

26 ~~SEC. 29.~~

27 *SEC. 28.* Section 24214 of the Education Code, as amended  
28 by Section 6 of Chapter 296 of the Statutes of 2012, is amended  
29 to read:

30 24214. (a) A member retired for service under this part may  
31 perform retired member activities, but the member shall not make  
32 contributions to the retirement fund or accrue service credit based  
33 on compensation earned from that service. The employer shall  
34 maintain accurate records of the earnings of the retired member  
35 and report those earnings monthly to the system and retired member  
36 as described in Section 22461.

37 (b) If a member is retired for service under this part, the  
38 annualized rate of pay for retired member activities, performed by  
39 that member shall not be less than the minimum, nor exceed the

1 maximum, paid by the employer to other employees performing  
2 comparable duties.

3 (c) A member retired for service under this part shall not be  
4 required to reinstate for performing retired member activities.

5 (d) A member retired for service under this part may earn  
6 compensation for performing retired member activities in any one  
7 school year up to the limitation specified in subdivision (f) without  
8 a reduction in his or her retirement allowance.

9 (e) The postretirement compensation limitation provisions set  
10 forth in this section are not applicable to compensation earned for  
11 the performance of retired member activities that are not wholly  
12 or in part supported by state, local, or federal funds.

13 (f) (1) The limitation that shall apply to the compensation paid  
14 in cash to the retired member for performance of retired member  
15 activities, excluding reimbursements paid by an employer for  
16 expenses incurred by the member; in which payment of the  
17 expenses by the member is substantiated, shall, in any one school  
18 year, be an amount calculated by the system each July 1 equal to  
19 one-half of the median final compensation of all members who  
20 retired for service during the fiscal year ending in the previous  
21 calendar year.

22 (2) ~~The~~ *For written agreements pertaining to the performance*  
23 *of retired member activities entered into, extended, renewed, or*  
24 *amended on or after January 1, 2014, the limitation in paragraph*  
25 (1) shall also apply to payments, including, but not limited to,  
26 those for participation in a deferred compensation plan; to purchase  
27 an annuity contract, tax-deferred retirement plan, or insurance  
28 program; and for contributions to a plan that meets the requirements  
29 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
30 26 of the United States Code when the cost is covered by an  
31 employer.

32 (g) If a member retired for service under this part earns  
33 compensation for performing retired member activities, in excess  
34 of the limitation specified in subdivision (f), and if that  
35 compensation is not exempt from that limitation under subdivision  
36 (e) or (h) or any other law, the member's retirement allowance  
37 shall be reduced by the amount of the excess compensation. The  
38 amount of the reduction may be equal to the monthly allowance  
39 payable but shall not exceed the amount of the annual allowance  
40 payable under this part for the fiscal year in which the excess

1 compensation was earned after any reduction made in accordance  
2 with subdivision (h) of Section 24214.5.

3 (h) The limitation specified in this section is not applicable to  
4 compensation paid to a member retired for service under this part  
5 who has returned to work after the date of retirement:

6 (1) As a trustee appointed by the Superintendent of Public  
7 Instruction pursuant to Section 41320.1.

8 (2) As a fiscal adviser or fiscal expert appointed by a county  
9 superintendent of schools pursuant to Article 2 (commencing with  
10 Section 42122) of Chapter 6 of Part 24 of Division 3 of Title 2.

11 (3) As a receiver or trustee appointed by the State Board of  
12 Education pursuant to Article 3.1 (commencing with Section  
13 52055.57) of Chapter 6.1 of Part 28 of Division 4 of Title 2.

14 (4) As a special trustee appointed by the Board of Governors  
15 of the California Community Colleges pursuant to Section 84040.

16 (i) The Superintendent of Public Instruction, the Executive  
17 Director of the State Board of Education, the Chancellor of the  
18 California Community Colleges, or the county superintendent of  
19 schools exercising the exemption pursuant to subdivision (h) shall  
20 submit all documentation required by the system to substantiate  
21 the eligibility of the retired member for the exemption, including  
22 compliance with subdivisions (j) and (k). The documentation shall  
23 be received by the system prior to the retired member's  
24 performance of retired member activities.

25 (j) Subdivision (h) shall not apply to a retired member who has  
26 not attained normal retirement age at the time the compensation  
27 is earned by the member, received additional service credit pursuant  
28 to Section 22714 or 22715, or received from any public employer  
29 any financial inducement to retire in the previous six months. For  
30 purposes of this section and Section 24214.5, "financial inducement  
31 to retire" includes, but is not limited to, any form of compensation  
32 or other payment that is paid directly or indirectly by a public  
33 employer to the member, even if not in cash, either before or after  
34 retirement, if the member retires for service on or before a specific  
35 date or specific range of dates established by the public employer  
36 on or before the date the inducement is offered. The system shall  
37 liberally interpret this subdivision to further the Legislature's intent  
38 to make subdivision (h) inapplicable to members if the member  
39 received a financial incentive from any public employer to retire  
40 or otherwise terminate employment with the public employer.

1 (k) The documentation required for subdivision (i) shall include  
 2 certification of the following:

3 (1) The position was first advertised for appointment to current  
 4 active or inactive members of the program with the necessary  
 5 qualifications to perform the requirements of the position and no  
 6 qualified current active or inactive member was available to be  
 7 appointed.

8 (2) The appointing authority made a good faith effort to hire a  
 9 retired member who reinstated to active membership for the  
 10 position at the same salary that was offered as first advertised  
 11 pursuant to paragraph (1).

12 (3) The appointing authority, having tried and failed to hire a  
 13 current active or inactive member or a reinstated retired member,  
 14 hired a retired member and the salary offered to the retired member  
 15 subject to this paragraph does not exceed the salary that was offered  
 16 as first advertised pursuant to paragraph (1).

17 (4) The salary paid shall be no greater than the salary offered  
 18 to current active members for the appointed position.

19 (l) The amendments to this section enacted during the 1995–96  
 20 Regular Session shall be deemed to have become operative on July  
 21 1, 1996.

22 (m) ~~This section~~ *The amendments to this section enacted during*  
 23 *the second year of the 2011–12 Regular Session shall apply to*  
 24 *compensation paid during the 2012–13 and 2013–14 fiscal years.*

25 (n) *The amendments to this section enacted during the first year*  
 26 *of the 2013–14 Regular Session shall apply to compensation paid*  
 27 *on or after January 1, 2014.*

28 ~~(n)~~

29 (o) This section shall become inoperative on July 1, 2014, and,  
 30 as of January 1, 2015, is repealed, unless a later enacted statute,  
 31 that becomes operative on or before January 1, 2015, deletes or  
 32 extends the dates on which it becomes inoperative and is repealed.

33 ~~SEC. 30.~~

34 *SEC. 29.* Section 24214 of the Education Code, as amended  
 35 by Section 7 of Chapter 296 of the Statutes of 2012, is amended  
 36 to read:

37 24214. (a) A member retired for service under this part may  
 38 perform retired member activities, but the member shall not make  
 39 contributions to the retirement fund or accrue service credit based  
 40 on compensation earned from that service. The employer shall

1 maintain accurate records of the earnings of the retired member  
2 and report those earnings monthly to the system and retired member  
3 as described in Section 22461.

4 (b) If a member is retired for service under this part, the  
5 annualized rate of pay for retired member activities performed by  
6 that member shall not be less than the minimum, nor exceed the  
7 maximum, paid by the employer to other employees performing  
8 comparable duties.

9 (c) A member retired for service under this part shall not be  
10 required to reinstate for performing retired member activities.

11 (d) A member retired for service under this part may earn  
12 compensation for performing retired member activities in any one  
13 school year up to the limitation specified in subdivision (f) without  
14 a reduction in his or her retirement allowance.

15 (e) The postretirement compensation limitation provisions set  
16 forth in this section are not applicable to compensation earned for  
17 the performance of retired member activities that are not wholly  
18 or in part supported by state, local, or federal funds.

19 (f) (1) The limitation that shall apply to the compensation paid  
20 in cash to the retired member for performance of retired member  
21 activities, excluding reimbursements paid by an employer for  
22 expenses incurred by the member; in which payment of the  
23 expenses by the member is substantiated, shall, in any one school  
24 year, be an amount calculated by the system each July 1 equal to  
25 one-half of the median final compensation of all members who  
26 retired for service during the fiscal year ending in the previous  
27 calendar year.

28 (2) ~~The~~ *For written agreements pertaining to the performance*  
29 *of retired member activities entered into, extended, renewed, or*  
30 *amended on or after January 1, 2014, the limitation in paragraph*  
31 (1) shall also apply to payments, including, but not limited to,  
32 those for participation in a deferred compensation plan; to purchase  
33 an annuity contract, tax-deferred retirement plan, or insurance  
34 program; and for contributions to a plan that meets the requirements  
35 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
36 26 of the United States Code when the cost is covered by an  
37 employer.

38 (g) If a member retired for service under this part earns  
39 compensation for performing retired member activities, in excess  
40 of the limitation specified in subdivision (f), the member's

1 retirement allowance shall be reduced by the amount of the excess  
 2 compensation. The amount of the reduction may be equal to the  
 3 monthly allowance payable but may not exceed the amount of the  
 4 annual allowance payable under this part for the fiscal year in  
 5 which the excess compensation was earned after any reduction  
 6 made in accordance with subdivision (h) of Section 24214.5.

7 (h) The language of this section derived from the amendments  
 8 to the section of this number added by Chapter 394 of the Statutes  
 9 of 1995, enacted during the 1995–96 Regular Session, is deemed  
 10 to have become operative on July 1, 1996.

11 (i) This section shall become operative on July 1, 2014.

12 ~~SEC. 31.~~

13 *SEC. 30.* Section 24214.5 of the Education Code is amended  
 14 to read:

15 24214.5. (a) (1) Notwithstanding subdivision (f) of Section  
 16 24214, the postretirement compensation limitation that shall apply  
 17 to the compensation paid in cash to the retired member for  
 18 performance of retired member activities, excluding  
 19 reimbursements paid by an employer for expenses incurred by the  
 20 member, in which payment of the expenses by the member is  
 21 substantiated, shall be zero dollars (\$0) during the first 180 calendar  
 22 days after the most recent retirement of a member retired for service  
 23 under this part.

24 (2) ~~The~~ *For written agreements pertaining to the performance*  
 25 *of retired member activities entered into, extended, renewed, or*  
 26 *amended on or after January 1, 2014, the limitation in paragraph*  
 27 (1) shall also apply to payments, including, but not limited to,  
 28 those for participation in a deferred compensation plan; to purchase  
 29 an annuity contract, tax-deferred retirement plan, or insurance  
 30 program; and for contributions to a plan that meets the requirements  
 31 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
 32 26 of the United States Code when the cost is covered by an  
 33 employer.

34 (b) If the retired member has attained normal retirement age at  
 35 the time the compensation is earned, subdivision (a) shall not apply  
 36 and Section 24214 shall apply if the appointment has been  
 37 approved by the governing body of the employer in a public  
 38 meeting, as reflected in a resolution adopted by the governing body  
 39 of the employer prior to the performance of retired member  
 40 activities, expressing its intent to seek an exemption from the

1 limitation specified in subdivision (a). Approval of the appointment  
2 may not be placed on a consent calendar. Notwithstanding any  
3 other provision of Article 3.5 (commencing with Section 6250) of  
4 Division 7 of Title 1 of the Government Code or any state or  
5 federal law incorporated by subdivision (k) of Section 6254 of the  
6 Government Code, the resolution shall be subject to disclosure by  
7 the entity adopting the resolution and the system. The resolution  
8 shall include the following specific information and findings:

9 (1) The nature of the employment.

10 (2) A finding that the appointment is necessary to fill a critically  
11 needed position before 180 calendar days have passed.

12 (3) A finding that the member is not ineligible for application  
13 of this subdivision pursuant to subdivision (d).

14 (4) A finding that the termination of employment of the retired  
15 member with the employer is not the basis for the need to acquire  
16 the services of the member.

17 (c) Subdivision (b) shall not apply to a retired member whose  
18 termination of employment with the employer is the basis for the  
19 need to acquire the services of the member.

20 (d) Subdivision (b) shall not apply if the retired member received  
21 additional service credit pursuant to Section 22714 or 22715 or  
22 received from any public employer any financial inducement to  
23 retire. For purposes of this section, “financial inducement to retire”  
24 includes, but is not limited to, any form of compensation or other  
25 payment that is paid directly or indirectly by a public employer to  
26 the member, even if not in cash, either before or after retirement,  
27 if the participant retires for service on or before a specific date or  
28 specific range of dates established by a public employer on or  
29 before the date the inducement is offered. The system shall liberally  
30 interpret this subdivision to further the Legislature’s intent to make  
31 subdivision (b) inapplicable to members if the member received  
32 a financial incentive from any public employer to retire or  
33 otherwise terminate employment with a public employer.

34 (e) The Superintendent, the county superintendent of schools,  
35 or the chief executive officer of a community college shall submit  
36 all documentation required by the system to substantiate the  
37 eligibility of the retired member for application of subdivision (b),  
38 including, but not limited to, the resolution adopted pursuant to  
39 that subdivision.

1 (f) The documentation required by this section shall be received  
2 by the system prior to the retired member’s performance of retired  
3 member activities.

4 (g) Within 30 calendar days after the receipt of all  
5 documentation required by the system pursuant to this section, the  
6 system shall inform the entity seeking application of the exemption  
7 specified in subdivision (b), and the retired member whether the  
8 compensation paid to the member will be subject to the limitation  
9 specified in subdivision (a).

10 (h) If a member retired for service under this part earns  
11 compensation for performing retired member activities in excess  
12 of the limitation specified in subdivision (a), the member’s  
13 retirement allowance shall be reduced by the amount of the excess  
14 compensation. The amount of the reduction may be equal to the  
15 monthly allowance payable but may not exceed the amount of the  
16 allowance payable during the first 180 calendar days, after a  
17 member retired for service under this part.

18 (i) *The amendments to this section enacted during the first year*  
19 *of the 2013–14 Regular Session shall apply to compensation paid*  
20 *on or after January 1, 2014.*

21 ~~SEC. 32.~~

22 *SEC. 31.* Section 24252 is added to the Education Code, to  
23 read:

24 24252. This chapter shall not apply to a member subject to the  
25 California Public Employees’ Pension Reform Act of 2013.

26 ~~SEC. 33.~~

27 *SEC. 32.* Section 24600 of the Education Code is amended to  
28 read:

29 24600. (a) A retirement allowance under this part begins to  
30 accrue on the effective date of the member’s retirement and ceases  
31 on the earlier of the day of the member’s death or the day on which  
32 the retirement allowance is terminated for a reason other than the  
33 member’s death.

34 (b) A retirement allowance payable to an option beneficiary  
35 under this part begins to accrue on the day following the day of  
36 the retired member’s death and ceases on the day of the option  
37 beneficiary’s death.

38 (c) A disability allowance under this part begins to accrue on  
39 the effective date of the member’s disability allowance and ceases  
40 on the earlier of the day of the member’s death or the day on which

1 the disability allowance is terminated for a reason other than the  
2 member's death.

3 (d) A family allowance under this part begins to accrue on the  
4 day following the day of the member's death and ceases on the  
5 day of the event that terminates eligibility for the allowance.

6 (e) A survivor benefit allowance payable to a surviving spouse  
7 under this part pursuant to Chapter 23 (commencing with Section  
8 23850) begins to accrue on the day the member would have  
9 attained normal retirement age or on the day following the day of  
10 the member's death, as elected by the surviving spouse, and ceases  
11 on the day of the surviving spouse's death.

12 (f) (1) Except as provided in paragraph (2), a child's portion  
13 of an allowance under this part begins to accrue on the effective  
14 date of that allowance and ceases on the earlier of either the  
15 termination of the child's eligibility or the termination of the  
16 allowance.

17 (2) A child's portion of a disability retirement allowance under  
18 Chapter 26 (commencing with Section 24100) ceases on the earlier  
19 of either:

20 (A) The termination date of the child's eligibility.

21 (B) The termination of the allowance for reasons other than  
22 death.

23 (g) Supplemental payments issued under this part pursuant to  
24 Sections 24412 and 24415 to retired members, disabled members,  
25 and beneficiaries shall begin to accrue pursuant to Sections 24412  
26 and 24415 and shall cease to accrue as of the termination dates  
27 specified in subdivisions (a) to (f), inclusive, of this section.

28 (h) Notwithstanding any other provision of this part or other  
29 law, distributions payable under the plan with respect to the  
30 Defined Benefit Program and the Defined Benefit Supplement  
31 Program shall be made in accordance with applicable provisions  
32 of the Internal Revenue Code of 1986 and related regulations. The  
33 required beginning date of benefit payments that represent the  
34 entire interest of the member in the plan with respect to the Defined  
35 Benefit Program and the Defined Benefit Supplement Program  
36 shall be either:

37 (1) In the case of a refund of contributions, as described in  
38 Chapter 18 (commencing with Section 23100) of this part and  
39 distribution of an amount equal to the balance of credits in a  
40 member's Defined Benefit Supplement account, as described in

1 Chapter 38 (commencing with Section 25000) of this part, not  
2 later than April 1 of the calendar year following the later of (A)  
3 the calendar year in which the member attains the age at which  
4 the Internal Revenue Code of 1986 requires a distribution of  
5 benefits or (B) the calendar year in which the member terminates  
6 employment within the meaning of subdivision (i).

7 (2) In the case of a retirement allowance, as defined in Section  
8 22166, not later than April 1 of the calendar year following the  
9 later of (A) the calendar year in which the member attains the age  
10 at which the Internal Revenue Code of 1986 requires a distribution  
11 of benefits or (B) the calendar year in which the member terminates  
12 employment within the meaning of subdivision (i), to continue  
13 over the life of the member or the lives of the member and the  
14 member's option beneficiary, or over the life expectancy of the  
15 member or the life expectancy of the member and the member's  
16 option beneficiary.

17 (i) For purposes of subdivision (h), the phrase "terminates  
18 employment" means the later of:

19 (1) The date the member ceases to perform creditable service  
20 subject to coverage under this plan.

21 (2) The date the member ceases employment in a position  
22 subject to coverage under another public retirement system in this  
23 state if the compensation earnable while a member of the other  
24 system may be considered in the determination of final  
25 compensation pursuant to Section 22134, 22135, or 22136.

26 ~~SEC. 34.~~

27 *SEC. 33.* Section 26132.5 is added to the Education Code, to  
28 read:

29 26132.5. (a) "Participant subject to the California Public  
30 Employees' Pension Reform Act of 2013" means, notwithstanding  
31 subdivision (f) of Section 7522.04 of the Government Code, a  
32 person who first becomes employed to perform creditable service  
33 subject to coverage under the Cash Balance Benefit Program on  
34 or after January 1, 2013.

35 (b) A participant as defined in subdivision (a) does not include  
36 a person who was a member on or before December 31, 2012, of  
37 the California Public Employees' Retirement System, the  
38 Legislators' Retirement System, the University of California  
39 Retirement System, county retirement systems established under  
40 Chapter 3 (commencing with Section 31450) of Part 3 of Division

1 4 of Title 3 of the Government Code, or the San Francisco  
2 Employees' Retirement System, and the person performed service  
3 in the other retirement system within the six months prior to the  
4 commencement of creditable service under the Cash Balance  
5 Benefit Program.

6 (c) This section shall be deemed to have become operative on  
7 January 1, 2013.

8 ~~SEC. 35.~~

9 *SEC. 34.* Section 26135.5 is added to the Education Code, to  
10 read:

11 26135.5. "Public employer" means a public employer as  
12 defined by subdivision (i) of Section 7522.04 of the Government  
13 Code.

14 ~~SEC. 36.~~

15 *SEC. 35.* Section 26135.7 is added to the Education Code, to  
16 read:

17 26135.7. (a) "Retired participant activities" means one or more  
18 activities identified in subdivision (a) or (b) of Section 22119.5 or  
19 (a) or (b) of Section 26113 within the California public school  
20 system and performed by a participant retired for service under  
21 this part as one of the following:

22 (1) An employee of an employer.

23 (2) An employee of a third party, except as specified in  
24 subdivision (b).

25 (3) An independent contractor.

26 (b) The activities of an employee of a third party shall not be  
27 included in the definition of "retired participant activities" if all  
28 of the following conditions apply:

29 (1) The employee performs an assignment of 24 months or less.

30 (2) The third-party employer does not participate in a California  
31 public pension system.

32 (3) The activities performed by the individual are not normally  
33 performed by employees of an employer, as defined in Section  
34 22131.

35 ~~SEC. 37.~~

36 *SEC. 36.* Section 26139 of the Education Code is amended to  
37 read:

38 26139. (a) "Salary" means remuneration paid in cash by an  
39 employer to a participant for creditable service performed in that

1 position subject to coverage under the Cash Balance Benefit  
2 Program. Salary shall include:

3 (1) Money paid in accordance with a publicly available written  
4 contractual agreement, including, but not limited to, a salary  
5 schedule, based on years of training and years of experience as  
6 specified in Section 45028 for creditable service performed.

7 (2) For participants not paid according to a salary schedule,  
8 money paid for creditable service performed in accordance with  
9 a publicly available written contractual agreement, including, but  
10 not limited to, a collective bargaining agreement or an employment  
11 agreement.

12 (3) Money paid for the participant's absence from performance  
13 of creditable service as approved by an employer, except as  
14 provided in paragraph (5) of subdivision (b).

15 (4) Employee contributions picked up by an employer ~~under~~  
16 ~~Section 414(h)(2) of Title 26 of the United States Code and Section~~  
17 ~~17501 of the Revenue and Taxation Code pursuant to Section~~  
18 ~~26502.~~

19 (5) Amounts deducted by an employer from the participant's  
20 salary, including, but not limited to, deductions for participation  
21 in a deferred compensation plan; deductions for the purchase of  
22 an annuity contract, tax-deferred retirement plan, or other insurance  
23 program; and deductions for participation in a plan that meets the  
24 requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or  
25 457(f) of Title 26 of the United States Code.

26 (6) Money paid by an employer in addition to salary paid under  
27 paragraph (1) or (2) if paid to all employees in a class in the same  
28 dollar amount, the same percentage of salary, or the same  
29 percentage of the amount being distributed.

30 (7) Any other payments the board determines by plan  
31 amendment to be "salary."

32 (b) "Salary" does not mean and shall not include:

33 (1) Money paid for service that is not creditable service.

34 (2) Money paid by an employer in addition to salary paid under  
35 paragraph (1) or (2) if not paid to all employees in a class in the  
36 same dollar amount, the same percentage of salary, or the same  
37 percentage of the amount being distributed.

38 (3) Fringe benefits provided by an employer.

39 (4) Expenses paid or reimbursed by an employer.

1 (5) Money paid in exchange for the relinquishment of unused  
2 accumulated leave.

3 (6) Severance pay, including lump-sum and installment  
4 payments, or money paid in excess of salary or wages to a ~~member~~  
5 *participant* as compensatory damages or as a compromise  
6 settlement.

7 (7) Payments, including, but not limited to, those for  
8 participation in a deferred compensation plan; to purchase an  
9 annuity contract, tax-deferred retirement program, or other  
10 insurance program; and for participation in a plan that meets the  
11 requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or  
12 457(f) of Title 26 of the United States Code that are purchased by  
13 an employer for a participant.

14 (8) Any payments determined by the system to have been made  
15 by an employer to enhance a participant's benefits.

16 (9) Any other payments the board determines by plan  
17 amendment not to be "salary."

18 (c) Any employer or person who knowingly or willfully reports  
19 salary in a manner inconsistent with the provisions of subdivisions  
20 (a) or (b) may be subject to prosecution for fraud, theft, or  
21 embezzlement in accordance with provisions of the Penal Code.  
22 The system may establish procedures to ensure that salary reported  
23 by an employer is in compliance with this section.

24 (d) For purposes of this section, remuneration shall be  
25 considered paid if distributed to any person in the same class of  
26 employees who meets the qualifications or requirements specified  
27 in a publicly available written contractual agreement, including,  
28 but not limited to, a collective bargaining agreement or an  
29 employment agreement, as a condition of receiving the  
30 remuneration.

31 (e) This section shall be deemed to have become operative on  
32 July 1, 1996.

33 (f) This section shall not apply to a participant subject to the  
34 California Public Employees' Pension Reform Act of 2013.

35 ~~SEC. 38.~~

36 ~~SEC. 37.~~ Section 26139.5 is added to the Education Code, to  
37 read:

38 26139.5. (a) "Salary," for participants subject to the California  
39 Public Employees' Pension Reform Act of 2013, means ~~regular,~~  
40 ~~recurring~~ remuneration paid *each pay period* in cash by an

1 employer to a participant for creditable service performed in that  
2 position subject to coverage under the Cash Balance Benefit  
3 Program in accordance with a publicly available written contractual  
4 agreement, including, but not limited to, a salary schedule or  
5 employment agreement, based on years of training and years of  
6 experience as specified in Section 45028. Salary shall include:

7 (1) Money paid for the participant's absence from performance  
8 of creditable service as approved by an employer, except as  
9 provided in paragraph (5) of subdivision (b).

10 (2) Employee contributions picked up by an employer ~~under~~  
11 ~~Section 414(h)(2) of Title 26 of the United States Code and Section~~  
12 ~~17501 of the Revenue and Taxation Code pursuant to Section~~  
13 ~~26502.~~

14 (3) Amounts deducted by an employer from the participant's  
15 salary, including, but not limited to, deductions for participation  
16 in a deferred compensation plan; deductions for the purchase of  
17 an annuity contract, tax-deferred retirement plan, or other insurance  
18 program; and deductions for participation in a plan that meets the  
19 requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or  
20 457(f) of Title 26 of the United States Code.

21 ~~(4) Notwithstanding paragraph (10) of subdivision (b),~~  
22 ~~remuneration that is paid to achieve compensation parity between~~  
23 ~~part-time and full-time faculty of California Community Colleges~~  
24 ~~for similar work, as funded pursuant to the Budget Act.~~

25 ~~(5) Notwithstanding paragraph (10) of subdivision (b),~~  
26 ~~remuneration that is paid based on the allocation of funds from~~  
27 ~~the California State Lottery Education Fund pursuant to Section~~  
28 ~~8880.5 of the Government Code.~~

29 ~~(6) Notwithstanding paragraph (10) of subdivision (b),~~  
30 ~~remuneration that is paid when the number of students in the~~  
31 ~~classroom exceeds the contractual amount.~~

32 (7)

33 (4) Any other payments the board determines by plan  
34 amendment to be "salary."

35 (b) "Salary" does not mean and shall not include:

36 (1) Money paid for service that is not creditable service.

37 (2) Money ~~paid by an employer in addition to salary not paid~~  
38 ~~each pay period in which creditable service is performed for that~~  
39 ~~position.~~

40 (3) Fringe benefits provided by an employer.

- 1 (4) Expenses paid or reimbursed by an employer.
- 2 (5) Money paid in exchange for the relinquishment of unused  
3 accumulated leave.
- 4 (6) Severance pay, including lump-sum and installment  
5 payments, or money paid in excess of salary to a participant as  
6 compensatory damages or as a compromise settlement.
- 7 (7) Payments, including, but not limited to, those for  
8 participation in a deferred compensation plan; to purchase an  
9 annuity contract, tax-deferred retirement program, or other  
10 insurance program; and for participation in a plan that meets the  
11 requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or  
12 457(f) of Title 26 of the United States Code that are purchased by  
13 an employer for a participant.
- 14 (8) Any payments determined by the system to have been made  
15 by an employer to enhance a participant's benefits under the plan.
- 16 (9) Money paid to the ~~member~~ *participant* in lieu of benefits  
17 provided to the participant by the employer or paid directly by the  
18 employer to a third party other than the system for the benefit of  
19 the participant.
- 20 (10) Any one-time or ad hoc payments made to a ~~member~~  
21 *participant*.
- 22 (11) Any employer-provided allowance, reimbursement, or  
23 payment, including, but not limited to, one made for housing,  
24 vehicle, or uniform.
- 25 (12) Any bonus paid in addition to compensation described in  
26 subdivision (a).
- 27 (13) Any other payments the board determines by plan  
28 amendment not to be "salary."
- 29 (c) (1) Salary in any fiscal year shall not exceed:  
30 (A) One hundred twenty percent of the "contribution and benefit  
31 base," as determined under Section 430(b) of the Social Security  
32 Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a participant  
33 whose service is not included in the federal system.  
34 (B) One hundred percent of the "contribution and benefit base,"  
35 as determined under Section 430(b) of the Social Security Act (42  
36 U.S.C. Sec. 430(b)), on January 1, 2013, for a participant whose  
37 service is included in the federal system pursuant to any changes  
38 in state or federal law enacted on or after January 1, 2013.
- 39 (2) The system shall adjust the limit in paragraph (1) based on  
40 the annual changes to the Consumer Price Index for All Urban

1 ~~Consumers~~ *Consumers: U.S. City Average*, calculated by dividing  
 2 the Consumer Price Index for All Urban ~~Consumers~~ *Consumers:*  
 3 *U.S. City Average* for the month of February in the fiscal year  
 4 preceding the adjustment by the Consumer Price Index for All  
 5 Urban ~~Consumers~~ *Consumers: U.S. City Average* for the month  
 6 of February of the previous year rounded to the nearest thousandth.  
 7 Notwithstanding paragraph (1) of subdivision (d) of Section  
 8 7522.10 of the Government Code, the adjustment shall be effective  
 9 annually on July 1, beginning July 1, 2014.

10 (3) The Legislature reserves the right to modify the requirements  
 11 of this subdivision with regard to all ~~members~~ *participants* subject  
 12 to this subdivision, except that the Legislature may not modify  
 13 these provisions in a manner that would result in a decrease in  
 14 benefits accrued prior to the effective date of the modification.

15 (d) Any employer or person who knowingly or willfully reports  
 16 salary in a manner inconsistent with the provisions of subdivisions  
 17 (a) or (b) may be subject to prosecution for fraud, theft, or  
 18 embezzlement in accordance with provisions of the Penal Code.  
 19 The system may establish procedures to ensure that salary reported  
 20 by an employer is in compliance with this section.

21 (e) For purposes of this section, remuneration shall be considered  
 22 paid if distributed to any person in the same class of employees  
 23 who meets the qualifications or requirements specified in a publicly  
 24 available written contractual agreement, including, but not limited  
 25 to, a collective bargaining agreement or an employment agreement,  
 26 as a condition of receiving the remuneration.

27 ~~SEC. 39.~~

28 *SEC. 38.* Section 26503.5 of the Education Code is amended  
 29 to read:

30 26503.5. If a person elects, pursuant to Section 26403, to  
 31 participate in the Cash Balance Benefit Program, his or her  
 32 employer shall make contributions, as provided in Section 26503,  
 33 based on the salary or other compensation paid for trustee service.  
 34 For a participant subject to the California Public Employees’  
 35 Pension Reform Act of 2013, other compensation paid for trustee  
 36 service is subject to the same requirements as “salary” as defined  
 37 in Section 26139.5.

38 ~~SEC. 40.~~

39 *SEC. 39.* Section 26504 of the Education Code is amended to  
 40 read:

1 26504. The employer may enter into a collective bargaining  
2 agreement to pay a different employer contribution rate and a  
3 different employee contribution rate, provided all of the following  
4 conditions are met:

5 (a) The sum of the employee contributions and employer  
6 contributions for each participant shall equal or exceed 8 percent  
7 of salary.

8 (b) The employee contribution rate may exceed the employer  
9 contribution rate but in no event shall the employer contribution  
10 rate be less than 4 percent.

11 (c) The employee contribution rate shall not be less than the  
12 employer contribution rate. If the terms of a collective bargaining  
13 agreement that is in effect on January 1, 2014, would be impaired  
14 by this subdivision, this subdivision shall not apply to the employer  
15 and participants subject to that contract until the expiration of that  
16 contract. A renewal, amendment, or any other extension of that  
17 contract shall be subject to the requirements of this subdivision.

18 (d) The employee contribution rate and employer contribution  
19 rate shall be the same for each participant employed by the  
20 employer.

21 (e) The employee contribution rate and employer contribution  
22 rate shall be in one-quarter percent increments.

23 (f) The employee contribution rate and employer contribution  
24 rate as determined under the collective bargaining agreement shall  
25 become effective on the first day of the plan year following  
26 notification to the system and shall remain in effect for at least one  
27 plan year. However, the employee contribution rate and the  
28 employer contribution rate as determined under the collective  
29 bargaining agreement may become effective as of the first day of  
30 the plan year in which notice is given if it is so provided in the  
31 collective bargaining agreement and if a lump-sum contribution  
32 is made to the plan equal to the additional employee and employer  
33 contributions, if any, that would have been required if the  
34 contribution rates had been in effect on the first day of the plan  
35 year. Interest shall be credited at the minimum interest rate with  
36 respect to the lump-sum contribution commencing with the first  
37 month after the contribution is made.

38 (g) The employer has filed notice of the employee contribution  
39 rate and the employer contribution rate on a form prescribed by  
40 the system.

1     ~~SEC. 41.~~

2     ~~SEC. 40.~~ Section 26800 of the Education Code is amended to  
3 read:

4     26800. The normal retirement age for the Cash Balance Benefit  
5 Program is 60 years of age, or 62 years of age for a participant  
6 subject to the California Public Employees' Pension Reform Act  
7 of 2013.

8     ~~SEC. 42.~~

9     ~~SEC. 41.~~ Section 26810 of the Education Code is amended to  
10 read:

11     26810. (a) A participant who is employed to perform creditable  
12 service subject to coverage by the Cash Balance Benefit Program  
13 while receiving an annuity under the program may voluntarily  
14 terminate the annuity upon employment and make contributions  
15 to the program based on salary paid by the employer for the  
16 employment, provided the participant has attained normal  
17 retirement age and has been receiving a retirement annuity for at  
18 least one year. The participant shall continue to be subject to  
19 Section 26808.

20     (b) The participant shall request in writing within 60 days of  
21 employment that the annuity be terminated. Termination of the  
22 participant's annuity shall become effective on the first day of the  
23 month following the month in which verification of the  
24 participant's employment is received by the system from the  
25 participant's employer.

26     (c) Upon voluntary termination of the annuity, the employee  
27 and employer account of the participant shall be credited with  
28 respective balances that reflect the actuarial equivalent of the  
29 participant's retirement benefit as of the date the participant  
30 terminates the annuity and the Annuitant Reserve shall be reduced  
31 by the amount of the credits.

32     (d) The portion of the annuity derived from the amounts credited  
33 to the employee account and employer account, as of the date the  
34 participant terminates the annuity, shall be calculated using the  
35 actuarial assumptions in effect on the initial retirement date using  
36 the age of the participant and, if the participant elected a joint and  
37 survivor option the age of the beneficiary on the current retirement  
38 date.

1 (e) Upon election of a subsequent annuity, the credits in the  
2 participant's employee account and employer account shall be  
3 transferred to the Annuitant Reserve.

4 ~~SEC. 43.~~

5 *SEC. 42.* Section 26812 of the Education Code is amended to  
6 read:

7 26812. (a) A participant retired for service under this part may  
8 perform retired participant activities, but the participant shall not  
9 make contributions to the plan or accrue service credit under the  
10 Defined Benefit Program based on compensation earned from that  
11 service. The employer shall maintain accurate records of the  
12 earnings of the retired participant and report those earnings monthly  
13 to the system and retired participant.

14 (b) If a participant is retired for service under this part, the  
15 *annualized* rate of pay for retired participant activities performed  
16 by that participant shall not be less than the minimum, nor exceed  
17 the maximum, paid by the employer to other employees performing  
18 comparable duties.

19 (c) A participant retired for service under this part shall not be  
20 required to reinstate for performing retired participant activities.

21 (d) (1) ~~If all of the following apply to a participant retired for~~  
22 ~~service under this part on or after January 1, 2014, is receiving an~~  
23 ~~annuity under the Cash Balance Benefit Program, and earns~~  
24 ~~compensation for performing retired participant activities, the~~  
25 ~~participant's annuity shall be reduced by the amount of the~~  
26 ~~compensation. This compensation:~~

27 (A) *The participant is receiving an annuity under the Cash*  
28 *Balance Benefit Program.*

29 (B) *The participant is below normal retirement age or retired*  
30 *on or after January 1, 2014.*

31 (C) *The participant earns compensation paid in cash for*  
32 *performing retired participant activities, excluding reimbursements*  
33 *paid by an employer for expenses incurred by the participant in*  
34 *which payment of the expenses by the participant is substantiated.*

35 (2) *The reduction in paragraph (1) shall only be made for*  
36 *compensation earned paid in cash during the first 180 calendar*  
37 *days after a participant retired for service under this part. The*  
38 *amount of the reduction may be equal to the monthly annuity*  
39 *payable but shall not exceed the amount of the annuity payable*  
40 *during the first 180 calendar days after a participant retired for*

1 service under this part. *For written agreements pertaining to the*  
2 *performance of retired participant activities entered into, extended,*  
3 *renewed, or amended on or after January 1, 2014, the reduction*  
4 *in paragraph (1) shall also be made for payments, including, but*  
5 *not limited to, those for participation in a deferred compensation*  
6 *plan; to purchase an annuity contract, tax-deferred retirement*  
7 *plan, or insurance program; and for contributions to a plan that*  
8 *meets the requirements of Section 125, 401(a), 401(k), 403(b),*  
9 *457(b), or 457(f) of Title 26 of the United States Code when the*  
10 *cost is covered by an employer.*

11 (e) If the participant has attained normal retirement age at the  
12 time the compensation is earned, subdivision (d) shall not apply  
13 if the appointment has been approved by the governing body of  
14 the employer in a public meeting, as reflected in a resolution  
15 adopted by the governing body of the employer prior to the  
16 performance of retired participant activities, expressing its intent  
17 to seek an exemption from the limitation specified in subdivision  
18 (d). Approval of the appointment shall not be placed on a consent  
19 calendar. Notwithstanding any other provision of Article 3.5  
20 (commencing with Section 6250) of Division 7 of Title 1 of the  
21 Government Code or any state or federal law incorporated by  
22 subdivision (k) of Section 6254 of the Government Code, the  
23 resolution shall be subject to disclosure by the entity adopting the  
24 resolution and the system. The resolution shall include the  
25 following specific information and findings:

26 (1) The nature of the employment.

27 (2) A finding that the appointment is necessary to fill a critically  
28 needed position before 180 calendar days has passed.

29 (3) A finding that the participant is not ineligible for application  
30 of this subdivision pursuant to subdivision (g).

31 (4) A finding that the termination of employment of the retired  
32 participant with the employer is not the basis for the need to acquire  
33 the services of the participant.

34 (f) Subdivision (e) shall not apply to a retired participant whose  
35 termination of employment with the employer is the basis for the  
36 need to acquire the services of the participant.

37 (g) Subdivision (e) shall not apply if the participant received  
38 additional service credit pursuant to Sections 22714 or 22715 or  
39 received from any public employer any financial inducement to  
40 retire. For purposes of this section, “financial inducement to retire”

1 includes, but is not limited to, any form of compensation or other  
2 payment that is paid directly or indirectly by a public employer to  
3 the participant, even if not in cash, either before or after retirement,  
4 if the participant retires for service on or before a specific date or  
5 specific range of dates established by a public employer on or  
6 before the date the inducement is offered. The system shall liberally  
7 interpret this subdivision to further the Legislature’s intent to make  
8 subdivision (e) inapplicable to participants if the participant  
9 received a financial incentive from any public employer to retire  
10 or otherwise terminate employment with a public employer.

11 (h) The superintendent, the county superintendent of schools,  
12 or the chief executive officer of a community college shall submit  
13 all documentation required by the system to substantiate the  
14 eligibility of the retired participant for application of subdivision  
15 (e), including, but not limited to, the resolution adopted pursuant  
16 to that subdivision.

17 (i) The documentation required by this section shall be received  
18 by the system prior to the retired participant’s performance of  
19 retired participant activities.

20 (j) Within 30 calendar days of the receipt of all documentation  
21 required by the system pursuant to this section, the system shall  
22 inform the entity seeking application of the exemption specified  
23 in subdivision (e) and the retired participant whether the  
24 compensation paid to the participant will be subject to the limitation  
25 specified in subdivision (d).

26 ~~SEC. 44.~~

27 *SEC. 43.* Section 26813 of the Education Code is amended to  
28 read:

29 26813. A member retired for service under the Defined Benefit  
30 Program may perform retired participant activities in any one  
31 school year up to the limitation specified in Sections 24214 and  
32 24214.5, but the member shall not make contributions to the fund.  
33 The employer shall maintain accurate records of the earnings of  
34 the retired member and report those earnings monthly to the system  
35 and retired member as described in Section 22461.

O